

Spearman, Gina v. Broker Solutions, Inc. Et Al

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1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 GINA SPEARMAN,
5 Plaintiff,

6 vs. CASE NO. 1:20-cv-04981-CAP

7 BROKER SOLUTIONS, INC. d/b/a
8 NEW AMERICAN FUNDING,
9 Defendant.

10 - - -

11 30(b)(6) Deposition of Broker Solutions, Inc.
12 d/b/a New American Funding
13 through JAN PRESLO,

14 and JAN PRESLO Individually,

15 Taken by MaryBeth V. Gibson,

16 Before Shannon E. Jordan,
17 Certified Court Reporter,
18 Via Veritext Virtual Videoconferencing,
19 On Friday, January 21, 2022,
20 Beginning at 12:06 p.m. & ending at 4:07 p.m.

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22
23
24
25

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14 ALSO PRESENT:

15 Gina Spearman

16 Ken Block, Esq., New American

Funding

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1 January 21, 2022

2 12:06 p.m.

3 (Whereupon the reporter provided a written
4 disclosure to all counsel pursuant to
5 Article 10.B. of the Rules and Regulations
6 of the Board of Court Reporting.)

7 THE COURT REPORTER: Due to this
8 deposition taking place remotely, the parties
9 will stipulate that the court reporter may swear
10 in the witness over Veritext virtual
11 videoconferencing and that the witness has
12 verified that she is, in fact, Jan Preslo.

13 JAN PRESLO,

14 being first duly sworn, was examined and
15 testified as follows:

16 EXAMINATION

17 BY MS. GIBSON:

18 Q Good morning, Ms. Preslo. How are
19 you?

20 A I'm -- good morning or good afternoon
21 to you.

22 Q Yes. Good morning.

23 A And I'm great. Thank you. Uh-huh
24 (affirmative).

25 Q I just want to let you know I'm

1 MaryBeth Gibson. I'm counsel for Ms. Spearman.
2 And this is Travis Hargrove, who is also
3 representing Ms. Spearman.

4 I'm going to be asking you some
5 questions today, trying to understand some
6 documents that were exchanged and some issues
7 regarding Ms. Spearman's compensation that I
8 understand you have knowledge of.

9 I'm going to be asking you questions,
10 and the court reporter is taking everything down.
11 So I ask that you give verbal responses, not head
12 nods, because she needs to be able to transcribe
13 everything and write it down.

14 MS. GIBSON: Henry, is the witness
15 going to read and sign?

16 MR. PERLOWSKI: Yes. And usual
17 stipulations, MaryBeth, is fine?

18 MS. GIBSON: Yep. That works.

19 MR. PERLOWSKI: Thank you.

20 BY MS. GIBSON:

21 Q So, Ms. Preslo, you'll have an
22 opportunity to read your deposition transcript
23 when we're -- when we're finished. Henry has
24 told me I speak very fast, so I want you to know
25 I am not trying to rush you.

1 So if you need me to slow down,
2 please let me know. If you need me to repeat
3 anything, please let me know. If you don't
4 understand a question, obviously, let me know,
5 and I'm happy to restate it. Do you understand
6 all of that?

7 A Yes, ma'am.

8 Q Okay. And are you on any medications
9 today that would affect your memory?

10 A No.

11 Q Are you on any medications that would
12 affect your ability to give truthful testimony?

13 A No.

14 Q And, also, if you have -- if you need
15 to take any breaks, that's perfectly fine. Just
16 I would ask if you -- if there's a question up
17 there, answer the question and then let me know
18 you need a break. I try to take one every hour
19 just for a couple of minutes just to let everyone
20 have a quick walk around.

21 And there are going to be times your
22 lawyer objects to some of my question. Unless he
23 instructs you not to answer, you may answer the
24 question. He's just perfecting the record. Do
25 you understand that?

1 A Yes.

2 Q Okay. Also, you have been identified
3 as a 30(b)(6) witness with respect to certain
4 topics, which means that you represent NAF with
5 respect to your testimony and that that testimony
6 is binding on that. Do you understand that?

7 A Yes.

8 Q And I'm also going to be asking you
9 specific questions with regard to your specific
10 knowledge regarding some documents or emails that
11 you may be on. And I'll try and let you know
12 or -- it may be obvious, but I'll try and let you
13 know when I'm doing that. Okay?

14 A Okay.

15 MR. PERLOWSKI: And, MaryBeth and
16 Travis, when we're accessing the exhibits, are we
17 going into the folder for Ms. Preslo with today's
18 date?

19 MS. GIBSON: With today's date.
20 They're loaded in the correct folder, and you
21 just refresh it after --

22 MR. PERLOWSKI: Got it. Exactly.

23 MS. GIBSON: It will appear. Right
24 now we're loading Exhibit 1, which is the
25 30(b)(6) deposition notice.

1 MR. PERLOWSKI: So, Ms. Preslo, when
2 you go into the Exhibit Share folder, you can
3 look for the link with your name and today's
4 date, and that's where the exhibits will be
5 uploaded. And they'll be uploaded sequentially
6 as they're presented to you. We just all -- all
7 of us have to -- whenever there's a new exhibit,
8 we've got to refresh the browser.

9 THE WITNESS: Okay.

10 (Whereupon a document was identified as
11 Exhibit 1.)

12 BY MS. GIBSON:

13 Q Let me know when that's loaded.

14 A I'm looking at Exhibit Share, and it
15 says Spearman, slash, comma, Gina. Is that what
16 I'm supposed to be opening?

17 Q Yes. If you click on that, it's
18 going to have a marked folders exhibit underneath
19 it or it will have -- should have your -- your
20 deposition date of today.

21 MR. PERLOWSKI: Yeah. My
22 recollection is -- I'm in the exhibit. It's
23 loading -- is that's on the left side of the
24 screen --

25 THE WITNESS: Uh-huh (affirmative).

1 MR. PERLOWSKI: -- you'll have some
2 options about -- there will be deponent names and
3 dates. There should be one for you with today's
4 date. If you will click on that link.

5 What happened for me when I just did
6 that is the Exhibit 1 then just popped up in a
7 window to the right.

8 THE WITNESS: Okay. Hold on. It's
9 saying -- oh, here we go. I've got deposition --
10 there's three. It looks like three folders.

11 BY MS. GIBSON:

12 Q There should be a marked exhibit
13 folder under your name.

14 A I have a deposition, Jan Preslo.
15 Hold on.

16 MR. PERLOWSKI: Ms. Jordan, also, I
17 believe Mr. Block is in the waiting room right
18 now. If you could --

19 THE WITNESS: I have a deposition of
20 Jan Preslo, 1-21-22 folder.

21 BY MS. GIBSON:

22 Q Yes, if you click on -- if you click
23 on that.

24 A Okay.

25 Q It's going to open a box below it,

1 and it should be marked exhibit folder.

2 A Okay.

3 Q And then you click on that, and it
4 should open up the first exhibit.

5 A Oh, okay. Now I see. And I -- I
6 should open that. Okay. Okay.

7 Q So do you see Plaintiff's Notice of
8 Taking Deposition of Broker Solutions, doing
9 business as New American Funding, pursuant to
10 Federal Rule 30(b)(6)?

11 A This is -- yes.

12 Q Okay. And you have been identified
13 as a witness who can testify about topics 4,
14 5, 6, 7, 8, 13, 17, and 18.

15 A So 4, 5, 6 -- okay.

16 Q 7 and 8.

17 A Hold on one sec.

18 Q Uh-huh (affirmative).

19 A Okay. So 4, 5, 6, 7. And what were
20 the other ones?

21 Q 8.

22 A Okay.

23 Q 13.

24 A 13. Okay.

25 Q And then 17 and 18.

1 A Okay.

2 Q So I'm going to be asking you
3 questions about these topics today. And you
4 understand you're NAF's representative to provide
5 responses to these topics?

6 A Yes.

7 Q Okay. Also, prior to joining NAF --
8 and when I say NAF, that's -- just so you know,
9 I'm referring to New American Funding. And is
10 that okay with you?

11 A Yes.

12 Q Okay. Prior -- what -- when did you
13 join NAF?

14 A In February -- February 1, 2012.

15 Q Where did you work prior to NAF?

16 A Prior to New American Funding, I
17 worked at MetLife Home Loans.

18 Q And how long did you work for
19 MetLife?

20 A One year.

21 Q Where did you work prior to that?

22 A I worked for Bank of America.

23 Q How did you come to work at NAF?

24 A MetLife Home Loans closed their
25 mortgage division, and I was recruited to New

1 American Funding.

2 Q Who recruited you?

3 A That was Patty Arvielo and Bridgett
4 Attaya.

5 Q What's Bridgett's last name?

6 A Attaya.

7 Q And when you started with NAF in
8 2012, what was your title?

9 A Regional manager.

10 Q And how long were you regional
11 manager?

12 A For around nine months.

13 Q And then what was your title?

14 A I was promoted to EVP of retail
15 production.

16 Q What is your current title?

17 A EVP of production.

18 Q Okay. So since approximately 2000 --
19 late 2013, your title has not changed?

20 A My title was recently changed.

21 MR. PERLOWSKI: Object to the form.
22 Yeah, object to the form. Mischaracterizes the
23 testimony. You can answer, Ms. Preslo.

24 THE WITNESS: My title of EVT -- EVP
25 retail production, I was promoted within the last

1 couple of months to EVP of production.

2 MS. GIBSON:

3 Q So you went from EVP of retail
4 production to EVP of just production --

5 A Yes.

6 Q -- is that correct?

7 A Yes.

8 Q Okay. And that's your current title?

9 A Yes.

10 Q Okay. Have you had any other titles
11 or roles while you were -- have been employed at
12 NAF?

13 A No.

14 Q Have you ever been COO?

15 A No.

16 Q CFO?

17 A No.

18 Q Have you ever worked in human
19 resources?

20 A No.

21 Q How are you paid as the SVP of
22 retail?

23 A It's E -- EVP.

24 Q EVP. I'm sorry.

25 A I'm paid a salary and a compensation

1 structure that's tied to the profitability of the
2 division.

3 Q So is that based on a P&L model?

4 A Yes.

5 Q In your time at NAF, were you ever
6 paid override bonuses?

7 A No.

8 Q Tell me what you do as EVP. And is
9 it now retail production or just production?

10 A Just production.

11 Q So what is -- what is your role as
12 EVP of production?

13 A I oversee processes and procedures
14 for production, meaning loan production.

15 Q How did that change when you went
16 from EVP of retail production to just production?

17 A I'm now involved in our internal
18 division, our call center.

19 Q Okay. When did that change happen,
20 when you went from EVP of retail to just
21 production?

22 A Just within October of last year.
23 October 2021.

24 Q Is that -- does that include more job
25 responsibilities or less job responsibilities, or

1 is it just a different job entirely?

2 A It's -- it is additional
3 responsibilities.

4 Q Okay. When you were EVP of retail
5 production, who reported to you?

6 A The -- what we call the SVPs.

7 Q And who were the SVPs?

8 A Oh, you know what, I -- can I correct
9 that for a moment?

10 Q Of course.

11 A Okay.

12 Q And at any time you need to correct
13 something, please feel free to do so.

14 A Yeah. So I had our -- my direct
15 reports were area -- the national area of
16 production manager and our onboarding and
17 training team, and various different admins
18 reported to me directly.

19 Q Did the regional managers report to
20 you?

21 A No.

22 Q Who did they report to?

23 A To Jon Reed.

24 Q In your role as EVP of retail
25 production, were you involved in presenting

1 contracts to new hires?

2 A Not to all new hires, but I was
3 involved in reviewing offer letters with
4 employ -- with new hires but not all of them.

5 Q Were you involved in reviewing the
6 offer letter to Ms. Spearman?

7 A Yes.

8 Q When did -- when did you -- did you
9 review the offer letter after it was emailed to
10 her or before it was emailed to her?

11 A I would have reviewed it before it
12 was emailed to her.

13 Q Okay. So when you say you reviewed
14 the offer letter, you're talking about you just
15 reviewed it in your office, going through it.
16 You didn't review it with the regional manager
17 being hired?

18 MR. PERLOWSKI: Object to the form.
19 You can answer.

20 THE WITNESS: I know that I would
21 have reviewed it. I mean, we -- there were
22 conversations with Gina Spearman and Kelly
23 Allison about, you know, the offer letter and
24 what to expect in regards to what they would
25 receive, you know, via email.

1 So there were verbal conversations
2 prior to her receiving the offer letter.

3 BY MS. GIBSON:

4 Q Okay. Were you involved in a -- did
5 you participate in a meeting where Ms. Spearman
6 and Ms. Allison flew to Tustin to meet with
7 officers of NAF prior to her being offered a job
8 as regional manager?

9 A I did participate in some of those
10 meetings, yes.

11 Q Okay. Tell me what happened at those
12 meetings. What did you discuss?

13 A My discussions that I recollect was
14 their transition, onboarding process, licensing
15 of the branches, because we did not have branches
16 in Georgia yet. So my role was more around the
17 experience of the onboarding and the team joining
18 New American Funding.

19 Q Did you discuss any terms of
20 Ms. Spearman's compensation with her when she
21 flew out to Tustin to meet with you?

22 A I don't recall specifically
23 discussing those with Gina. Kelly Allison was
24 out more than Gina and really drove those
25 conversations.

1 Q Do you know where they worked prior
2 to coming to work for NAF?

3 A Yes.

4 Q Where did they work?

5 A Caliber Home Loans.

6 Q Do you know how they were compensated
7 while they were at Caliber?

8 A My recollection is Kelly Allison was
9 paid on a profit and loss with a salary, and it
10 was my understanding, I believe, that Gina was
11 paid a salary plus an override.

12 Q Do you know what loans Ms. Spearman
13 was paid overrides on while she was at Caliber?

14 A No.

15 Q So at some point during that meeting,
16 while they were out in Tustin, did NAF make an
17 offer to them to come work for them?

18 A There were -- Kelly supplied, from my
19 recollection, you know, her income documents. I
20 recollect discussions around a guarantee for them
21 so they would not have a drop in income while
22 they were onboarding, you know, their team to a
23 new employer. I don't remember specific dollar
24 amounts discussed.

25 Q You don't remember specific dollar

1 amounts discussed for their compensation?

2 A Correct.

3 (Whereupon a document was identified as
4 Exhibit 3.)

5 BY MS. GIBSON:

6 Q Okay. Just so you know, we've loaded
7 Exhibit 2, but I'm going to come back to that.
8 And now we're loading Exhibit 3, so when that --
9 you can refresh your screen in a minute, and if
10 you can go to Exhibit 3, not Exhibit 2.

11 MR. PERLOWSKI: You may have to
12 reload it twice, Ms. Preslo, because my --

13 THE WITNESS: Do I have to -- when
14 you say reload it, do I just go back and click on
15 the shared or --

16 MR. PERLOWSKI: Right-click and then
17 there's a reload button. It should be a reload
18 button if you right-click your mouse or touch
19 pad.

20 THE WITNESS: Yeah, I don't see a
21 reload. Okay. Do I go back to marked exhibits?

22 BY MS. GIBSON:

23 Q If you just -- if you actually just
24 click on the -- your bar at the top, it should
25 refresh the folder entirely.

1 A Okay. It's -- looks like it's
2 reloading. Does it take a while?

3 MR. PERLOWSKI: Yeah, it can. Like,
4 for example --

5 THE WITNESS: Okay. Certainly.

6 MR. PERLOWSKI: -- my Exhibit 3, it
7 took a while to reload. I think it may depend on
8 the size of the exhibit.

9 THE WITNESS: Okay. So I go back to
10 Marked Exhibits folder. So now I have loaded
11 Exhibit 30(b)(6) or is it Exhibit 2?

12 BY MS. GIBSON:

13 Q No, it's Exhibit 3.

14 MR. PERLOWSKI: Is there any --

15 THE WITNESS: Exhibit 3. Okay. I
16 see it, so -- all right. Okay. The document is
17 on my screen.

18 BY MS. GIBSON:

19 Q Okay. And I'll represent to you that
20 this is a composite exhibit of Ms. Spearman's
21 offer -- letter offer of employment, the regional
22 manager agreement, and attached Schedule 1. And,
23 you know, if you want to take a look at it, go
24 ahead. I just want to know if you recognize
25 this.

1 A I do. Give me a moment.

2 Q Sure.

3 A Okay.

4 Q And earlier you testified that you
5 reviewed the letter offer before it was sent to
6 her. Is this the letter offer that you reviewed?

7 A It would have been, yes.

8 Q And do you know who prepared this?

9 A It would have been prepared by human
10 resources.

11 Q Okay. And did human resources send
12 it to Ms. Spearman or did you send it to
13 Ms. Spearman after you reviewed it?

14 A It would have been sent by human
15 resources.

16 Q And did human resources also send the
17 regional manager agreement attached to it?

18 A Yes.

19 Q Did human resources also send the
20 Schedule 1 that's attached to the regional
21 manager agreement?

22 A Yes.

23 Q Did -- after human resources sent
24 this to Ms. Spearman, did you have any
25 discussions with Ms. Spearman about the offer of

1 employment or the regional manager agreement or
2 Schedule 1 before she came to work for NAF?

3 A My recollection was mainly
4 conversations with -- with Kelly Allison.
5 Sometimes there were discussions with Kelly
6 Allison one on one or discussions with both of
7 them on the phone. So I --

8 Q Do you recall having a --

9 A I do believe I would have reviewed --
10 would have -- we would have gone over, you know,
11 the offer letter.

12 Q And I'm sorry. I didn't hear the
13 beginning. You would have gone over the offer
14 letter with --

15 A Yeah, I do, but I don't -- you know
16 what, I don't specifically remember reviewing the
17 offer letter with Gina.

18 Q Do you have a recollection of
19 reviewing the offer letter that you gave -- that
20 NAF gave to Ms. Allison?

21 A So in the recruiting process, either
22 with both of them either out or with Kelly on the
23 phone, I'm sure I would have had conversations
24 with Gina, prior to her joining, about this offer
25 letter before she executed it.

1 Q Do you remember what the content of
2 those conversation were?

3 A I don't recall.

4 Q Okay. And did NAF give a similar
5 letter offer to Ms. Allison?

6 A What do you mean when you -- what do
7 you mean by similar?

8 Q Did she receive a letter offer that
9 looked like Ms. Spearman's?

10 A It would have been the same context.
11 I -- Kelly Allison's income was greater than Gina
12 Spearman's, so I'm sure her guarantee would have
13 been more.

14 Q But otherwise, the -- I think you
15 said context. But the contents were the -- were
16 the same?

17 A The verbiage --

18 MR. PERLOWSKI: Object to the form.
19 Mischaracterizes testimony. You can answer.

20 BY MS. GIBSON:

21 Q Go ahead.

22 A So as far as Kelly Allison's offer
23 letter is concerned, from my -- from my memory,
24 she required a non -- or noncompete to be removed
25 for individuals that she was bringing to New

1 American Funding. And then she also negotiated a
2 marketing, you know, budget that she had at her
3 previous company.

4 Q And so --

5 A So those would have been differences,
6 from my memory, of Kelly's offer letter. And her
7 guarantee was more.

8 Q And if you look at each page of that
9 letter offer, did Ms. Spearman initial each page?

10 A I just reviewed the document, and she
11 initialed each page where it indicates employee
12 initials.

13 Q Uh-huh (affirmative).

14 A And pages that -- that have a
15 signature, she signed the document.

16 Q Okay. So page 7 of the letter offer,
17 there's Ms. Spearman's signature?

18 A Let me go back to that. Page 7?

19 Q Uh-huh (affirmative).

20 A Yes.

21 Q And it also is signed by Erika Del
22 Real. And who is that?

23 A I don't remember this -- that
24 employee, but it says her title is HR assistant,
25 so she would have been in the HR department.

1 Q Okay. Is compensation a material
2 term of employment?

3 MR. PERLOWSKI: Object to the form.
4 You can answer.

5 THE WITNESS: I'm sorry. Can you
6 repeat the question?

7 BY MS. GIBSON:

8 Q Sure. Is compensation a material
9 term of employment?

10 MR. PERLOWSKI: Object to the form.
11 You can answer.

12 THE WITNESS: I'm not an HR person.
13 I haven't worked in HR, so you'd have to give me
14 a better explanation of that question before I
15 answer.

16 MS. GIBSON:

17 Q Okay. Is -- so you understand what
18 material -- like, important material term would
19 be employed by NAF is. Do you understand that?

20 A Yes.

21 MR. PERLOWSKI: Object to the form.

22 BY MS. GIBSON:

23 Q And would compensation be a material
24 term of being employed by NAF or --

25 MR. PERLOWSKI: Object -- sorry.

1 Object to the form.

2 THE WITNESS: Repeat the question.

3 BY MS. GIBSON:

4 Q Okay. And you answered the first
5 part that you understood what a material term of
6 employment is to NAF. My question is, is
7 compensation considered a material -- a material
8 term of employment -- of employment?

9 MR. PERLOWSKI: Object to the form.
10 You can answer.

11 THE WITNESS: I mean, yes.

12 BY MS. GIBSON:

13 Q Can you turn to page 2 of the letter
14 offer and go to paragraph three.

15 A Page 2?

16 Q Yes, ma'am.

17 A Paragraph -- this is of the offer
18 letter; correct?

19 Q Yes, it is.

20 A And you want -- okay. The third
21 paragraph?

22 Q Uh-huh (affirmative).

23 A Okay.

24 Q And that states, manager agreements,
25 Gina is eligible to receive a regional manager

1 override, it says, outlined in Schedule 1
2 regional manager agreement. Do you see that?

3 A Yes.

4 Q So the letter offer here is
5 referencing Schedule 1 to the regional manager
6 agreement; is that correct?

7 A Yes.

8 MR. PERLOWSKI: Object to the form.
9 You can answer.

10 MS. GIBSON:

11 Q And if you go -- I'll represent to
12 you, the regional manager agreement is at Bates
13 669. And those are the numbers in the lower
14 left-hand corner of the page. I'm sorry. I
15 think I got that --

16 A I don't see a 669. What -- which
17 page are you?

18 MR. PERLOWSKI: It's page -- page 9
19 of the exhibit.

20 THE WITNESS: Page 9?

21 MR. PERLOWSKI: Page 9 of the
22 exhibit.

23 BY MS. GIBSON:

24 Q No, I'm sorry. It's page -- so on
25 the bottom left, you see Spearman with numbers

1 after it?

2 A Yes, ma'am.

3 Q Okay. So it says -- it will say
4 Spearman 669.

5 A Okay.

6 Q And that's titled Schedule 1 Regional
7 Manager Compensation Details.

8 A Okay. I have it.

9 Q So this is the Schedule 1 that is
10 referenced in paragraph three of the loan
11 offer -- I'm sorry -- the letter offer; is that
12 correct?

13 A Yes.

14 MR. PERLOWSKI: Object to the form.

15 BY MS. GIBSON:

16 Q And we're going to look at those in
17 more detail in a minute, but the Schedule 1
18 provides the details of Ms. Spearman's
19 compensation; is that correct?

20 A Give me just a moment to look through
21 it.

22 Q Sure.

23 A Yes.

24 Q And we're going to come back to it,
25 but it contains details on how her override

1 bonuses are to be paid; is that correct?

2 A Yes.

3 Q Okay. And if you go back to the
4 letter offer, I just want to look at one more
5 provision in there. If you go to page 5 of the
6 letter offer.

7 A Okay.

8 Q And is that page -- her initials are
9 on the bottom?

10 A Yes.

11 Q Okay. And at the top, there's a
12 block with -- it says Gina Spearman e-signed
13 2016-11-6, 11:53 a.m. Are all contracts given to
14 employees of NAF DocuSigned like this?

15 MR. PERLOWSKI: Object to the form.
16 You can answer.

17 THE WITNESS: To my knowledge, yes.

18 BY MS. GIBSON:

19 Q And if you look at the last paragraph
20 on that page --

21 A On page -- are you --

22 Q The same page.

23 A Excuse me. Are you referring back to
24 page 5?

25 Q Yes, ma'am.

1 A Okay.

2 Q If you read the -- you can read the
3 entire paragraph, but I really want to ask you
4 about the last sentence.

5 A Number four?

6 Q And we're on page 5, and it's the
7 last --

8 A Page --

9 Q Page 5 of Spearman -- of the letter
10 offer. It's Spearman 652.

11 A Oh, I'm sorry. I was looking at page
12 5 of the offer letter. So we're back -- where is
13 it, 652?

14 Q Yes. And it actually is page 5 of
15 the offer letter.

16 MR. PERLOWSKI: And if it helps, it's
17 page 5 of the exhibit, as well.

18 THE WITNESS: So Spearman 0652,
19 that's the page you're referencing?

20 BY MS. GIBSON:

21 Q Yes.

22 A Okay.

23 Q Do you see the last paragraph on that
24 page?

25 A Yes, ma'am.

1 Q It begins, "This letter contains the
2 entire agreement." I just want to make sure
3 we're in the right place.

4 A Yes.

5 Q Okay. And you can read the -- if you
6 want, the entire paragraph, but I want you to
7 read the last sentence.

8 It states, "The material terms of
9 your employment as set out in this letter may not
10 be modified or amended by verbal agreement or
11 course of conduct, but only by a written
12 agreement presented by human resources COO,
13 presently Christy Bunce, or CEO, presently Rick
14 Arvielo."

15 Do you see that?

16 A Yes.

17 Q And so what did -- what did this mean
18 to you when you reviewed this before sending
19 it -- before it went to Ms. Spearman?

20 A Exactly as it reads. It's
21 referencing this specific offer letter that
22 outlines her title and her guarantee. It's
23 specific to this letter.

24 Q Is it specific --

25 A Exactly as it reads.

1 Q I'm sorry. Okay. And is it also
2 specific to Schedule 1 that is identified in
3 paragraph three?

4 MR. PERLOWSKI: Object to the form.
5 BY MS. GIBSON:

6 Q You can answer.

7 A No.

8 Q Why not?

9 A Because this is an offer letter
10 that's going over her guarantee and is going over
11 her title. This sentence is specific to this
12 letter.

13 Q And so your testimony is that it's
14 not specific to manager agreements. Gina is
15 eligible to receive a regional manager override
16 outlined in Schedule 1 of the regional manager
17 agreement?

18 MR. PERLOWSKI: Object to the form.
19 BY MS. GIBSON:

20 Q You may answer.

21 A This letter -- this specific sentence
22 is referencing this offer letter specifically.

23 Q And all of the -- and all the terms
24 contained in it?

25 A No. It's for this guarantee portion,

1 her 12-month guarantee.

2 Q Okay. So that paragraph just applies
3 to some portions of this letter offer?

4 A Correct.

5 Q Is that what you're saying?

6 A Yes.

7 Q Okay. And in your conversations with
8 Ms. Spearman about the letter offer, did you
9 explain to her that -- that this -- that the
10 material terms of your employment as set out in
11 this letter may not be modified or amended by
12 verbal agreement or course of conduct and only by
13 a written agreement? Did you explain that that
14 only applies to a guarantee?

15 A I did not get into that detail with
16 her, no.

17 Q Did anyone from NAF explain that to
18 her?

19 A I -- I can only testify to what I
20 reviewed with her. I don't know if --

21 Q And this --

22 A -- she had conversations with our COO
23 and others, so I don't know.

24 Q All right. And this paragraph
25 doesn't say that, though, does it?

1 MR. PERLOWSKI: Object to the form.

2 BY MS. GIBSON:

3 Q You may answer.

4 A I'm sorry. Can you repeat the
5 question?

6 Q Yeah. You -- you said that this
7 sentence only applies to the guarantee, but it
8 doesn't say that in this sentence or the
9 paragraph, does it?

10 A The material terms of your employment
11 is set forth in this letter -- in this letter.

12 Q Right.

13 A Exactly what it says, which is
14 this -- this is her overview of her guarantee.

15 Q And do you agree that Schedule 1 is
16 referenced in paragraph three?

17 MR. PERLOWSKI: Object to the form.
18 You can answer.

19 THE WITNESS: So just hang on a
20 second. Let me refer back to that. I was
21 looking through the -- we're on 6 -- we're on
22 065 -- excuse me. I just want to make sure I'm
23 answering correctly. We're on -- we're on 0652,
24 and then you are referencing -- I'm sorry. Which
25 other paragraph?

1 BY MS. GIBSON:

2 Q Well, I'm just asking, you said that
3 this sentence only applies to this letter offer.

4 A Yes.

5 Q And I'm asking you, does the letter
6 offer of paragraph three contain the words,
7 Schedule 1 - Regional Manager Agreement --

8 MR. PERLOWSKI: Object to the form.

9 BY MS. GIBSON:

10 Q -- right there on the bottom 0649?

11 MR. PERLOWSKI: Object to the form.
12 Mischaracterizes the document. You can answer.

13 BY MS. GIBSON:

14 Q You may answer.

15 A Back to 0649?

16 Q Yep.

17 A Gina is eligible to receive a
18 regional manager override. Yes, it's referencing
19 the Schedule 1, which is in a different document.

20 Q And so this last sentence stating
21 that her employment -- the material terms may
22 only -- material terms of employment as set out
23 in this letter may only be modified or amended --
24 may not be modified or amended by verbal
25 agreement or course of conduct but only by a

1 written agreement presented by HR or COO or CEO.

2 So does that mean a written agreement
3 had to be presented to change the terms of the
4 letter offer?

5 MR. PERLOWSKI: Object to the form.
6 You can answer.

7 THE WITNESS: So changing her terms
8 of her guarantee would have required that to be
9 given to her, you know, by Christy Bunce or Rick
10 Arvielo, as far as the terms of her guarantee.

11 BY MS. GIBSON:

12 Q Does it say anywhere in here that
13 this -- that that applies only to her guarantee?

14 A I'm going to go back to my statement
15 that it says it's material to this letter, which
16 is the offer of employment letter.

17 Q And that's your testimony, but
18 that's -- is that stated anywhere in this letter
19 offer, is my question?

20 A I believe when it -- as the sentence
21 reads, the material terms of your employment is
22 set out in this letter, this letter is
23 referencing the offer of employment letter.

24 Q Right. And her guarantee and
25 Schedule 1; correct?

1 MR. PERLOWSKI: Object to the form.

2 THE WITNESS: The Schedule 1 is
3 referenced in this offer letter, but it is not
4 part of this sentence referenced in this offer
5 letter. If you read the -- if you read it, it
6 states that there is an attachment.

7 BY MS. GIBSON:

8 Q If you read it, it states what?

9 A And then if -- if you look at the --
10 hold on one sec. Let me go back.

11 Q Uh-huh (affirmative).

12 A The Schedule 1 -- the offer letter
13 states that there is a regional manager override
14 schedule that outlines her compensation --

15 Q Is that --

16 A -- for her override. Specifically to
17 her override. Gina is eligible to receive a
18 regional manager override.

19 Q Outlined in Schedule 1, that's
20 what --

21 A Outlined in Schedule 1 Regional
22 Manager Agreement.

23 Q Okay. Let's go to Bates 6 -- in that
24 same document, Spearman 0669, and it is the
25 Schedule 1 Regional Manager Compensation Details.

1 MR. PERLOWSKI: I'm sorry. MaryBeth,
2 which page did you say?

3 MS. GIBSON: Spearman 0669.

4 MR. PERLOWSKI: Thank you.

5 MS. GIBSON: Sure.

6 THE WITNESS: Okay.

7 BY MS. GIBSON:

8 Q You have that page? And if you look
9 at the top, it has that same DocuSign by
10 Ms. Spearman. Do you see that?

11 A Yes.

12 Q So was the letter offer, the regional
13 manager agreement, and the Schedule 1 presented
14 by human resources to Ms. Spearman at the same
15 time?

16 A Yes, it looks that it was sent at the
17 same time.

18 Q And Ms. Spearman signed it, it
19 appears, at the same time, would you agree?

20 A Yes.

21 Q Okay. And so this Schedule 1 is
22 what's referenced -- what we just looked at in
23 paragraph three of the offer letter?

24 A Uh-huh (affirmative).

25 Q Schedule 1 Regional Manager

1 Compensation Details, do you see that title?

2 A Yes.

3 Q Okay. And if we turn to the next
4 page, which is Spearman 0670.

5 A Yes.

6 Q And it has a paragraph 1.4, which is
7 titled, The Override Bonus Calculation Table.

8 A Yes.

9 Q Okay. And that basically describes
10 how override bonuses are to be paid to
11 Ms. Spearman. And if you look at the next page,
12 0671, it contains a table.

13 A Is that a question?

14 Q No, I'm just directing you to it.

15 A Yes. Okay. I've got it.

16 Q Are you there?

17 A Uh-huh (affirmative). Yes, ma'am.

18 Q And -- and that override bonus
19 calculation table was how -- was that how
20 Ms. Spearman's compensation was to be computed?

21 MR. PERLOWSKI: Object to the form.
22 You can answer.

23 THE WITNESS: Yes.

24 BY MS. GIBSON:

25 Q Okay. And then there is a

1 subparagraph 1.4.A.

2 A Yes.

3 Q And that provides, "The following
4 loan scenarios will not receive the override
5 bonus BPS shown in the above table, but will
6 instead receive the BPS shown as indicated
7 below."

8 And it states, "Branch jumbo-funded
9 loans, excluding Kelly Morrison, max 20 BPS, 70
10 percent to Kelly, 30 to Gina."

11 Do you see that, see the schedule set
12 up for bonus allocations?

13 A Yes.

14 Q So that's how jumbo-funded loans were
15 to be -- how overrides on jumbo-funded loans were
16 to be compensated?

17 A Yes.

18 Q Okay. And then if you go to 1.4.B.

19 A Yes.

20 Q And it says, "No override bonuses to
21 be paid on the following loans." And it lists
22 eight loans, do you see that?

23 A Yes.

24 Q It carries over to the next page. It
25 has a yes and a no, and it's checked no, not

1 applicable to this Area Manager Schedule. Do you
2 see that?

3 A Yes.

4 Q Okay. And this provision is actually
5 written in the double negative. It says, "No
6 override bonus will be paid on the following
7 loans," lists eight loans, and then it says, "No,
8 not applicable to this Area Manager Schedule"; is
9 that correct?

10 MR. PERLOWSKI: Object to the form.
11 Mischaracterizes the document, but you can
12 answer.

13 THE WITNESS: No. So the yes -- at
14 the time that this document was prepared, these
15 yes, noes apply to -- applies to these schedules,
16 to these loans.

17 So if you look at -- so it says a
18 yes, no, there can be amendments after the fact
19 with individuals who are hired where this
20 regional addendum can be modified.

21 BY MS. GIBSON:

22 Q So right now, it's checked, no, not
23 applicable to this Area Manager Schedule. We're
24 going to -- we're going to get to modifications
25 later, but I'm just asking about the original

1 contract dated -- or signed by Ms. Spearman
2 November 6th, 2016.

3 This particular box, is it checked
4 no?

5 A At the time that this document --
6 MR. PERLOWSKI: Object to the form.
7 BY MS. GIBSON:

8 Q Go ahead --

9 MR. PERLOWSKI: Go ahead.

10 BY MS. GIBSON:

11 Q -- Ms. Preslo, you can answer.

12 A At the time that this document was
13 prepared, the "no" is checked.

14 Q Okay.

15 A Correct.

16 Q And right above it, it says, "Yes,
17 see attached Schedule 4"; correct?

18 A Correct.

19 Q But it's not marked "yes"; is that
20 true?

21 A It's not marked "yes."

22 Q Okay.

23 A Correct.

24 Q So for -- so for Schedule 4 to be --
25 to be applicable, "yes" would have to be checked;

1 is that correct?

2 A At the time that this document was
3 prepared, there was not a Schedule 4.

4 Q Correct.

5 A So that is why it's marked "no."

6 Q Okay. And for any Schedule 4 to be
7 applicable, "yes" would have to be checked?

8 A At the -- yes. When this document
9 was prepared, the "yes" was not applicable.

10 Q I understand that. But I'm just
11 asking you, not with respect to this document,
12 but for a Schedule 4 to be applicable, "yes" in
13 this box, not necessarily on this document, but
14 "yes" would have to be checked; is that true?

15 MR. PERLOWSKI: Object to the form.
16 You can answer.

17 Q You can answer.

18 A Yes.

19 Q Okay. And so checking "no" here,
20 does that mean that all of these loans identified
21 above that line, Ms. Spearman should have
22 received an override bonus on?

23 MR. PERLOWSKI: Object to the form.

24 THE WITNESS: That is not correct.

25 BY MS. GIBSON:

1 Q Okay. Why not?

2 A Because the -- the 1.4.B lists out --
3 lists out the loans. And then this specific, see
4 attached Schedule 4 yes, no, is applicable to the
5 "no" override during the guarantee period.

6 At the time that she was hired, all
7 the loan officers were on guarantees, and she was
8 on a guarantee, and Kelly Allison was on a
9 guarantee for 12 months.

10 So it is -- this "no" is specific to
11 the Schedule 4 above, not to all of the loans
12 listed in the previous bullet points.

13 Q Did you explain that to Ms. Spearman
14 when you spoke to her after she received her
15 letter offer and Schedule 1?

16 A I know that during conversations with
17 Kelly and Gina, there were discussions on loans
18 that were paid or not paid. I don't -- I don't
19 recall specifically going through these yes, no,
20 boxes with her.

21 Q Right. Because you -- the
22 discussions that you had with Ms. Spearman and
23 Kelly were well after they signed these
24 agreements, when they weren't being paid the
25 overrides on those loans; correct?

1 A No, that's not correct.

2 MR. PERLOWSKI: Object to the form.

3 Mischaracterizes testimony. You can answer.

4 BY MS. GIBSON:

5 Q When were the discussions held?

6 A Discussions, when we're recruiting
7 individuals, you have conversations around your
8 compensation, loans excluded, not excluded.
9 Kelly Allison went back and forth on the split
10 that she was going to give Gina because that was
11 Kelly Allison's -- 100 percent her decision on
12 the compensation that Gina Spearman would be
13 paid.

14 And so when someone receives the
15 offer letter, we would have had discussions
16 around loans not receiving -- or not being
17 eligible to be paid an override.

18 Q Do you recall those discussions?

19 A I don't specifically recollect, but
20 I -- it would have been part of the process of
21 recruiting them, but those conversations would
22 have taken place either between myself or Christy
23 or Jon Reed.

24 Q So if both Ms. Allison and
25 Ms. Spearman were surprised and expressed

1 surprise, after signing these agreements and
2 after the guarantee period was over, that they
3 weren't receiving these loans, why would that be
4 if you explained to them that they weren't
5 receiving overrides on those loans?

6 Why would that be if you had already
7 told them they wouldn't be if they -- before they
8 signed the contract?

9 A I don't --

10 MR. PERLOWSKI: Object to the form.
11 Calls for speculation. Mischaracterizes
12 testimony. You can answer.

13 THE WITNESS: I don't recall them
14 being surprised.

15 BY MS. GIBSON:

16 Q Do you recall them ever coming --
17 well, let me ask you this.

18 After -- on a monthly basis, do they
19 receive the BMA on override spreadsheets?

20 A Part of the process of calculating
21 their monthly override, the commission team
22 prepared a manager override recap. And that
23 document was sent to Gina, Kelly, their executive
24 assistant, for them to review and to have any
25 questions at that point.

1 If, you know, their -- their
2 agreement with the compensation split was a
3 little complex. So they had the opportunity, you
4 know, to review that recap every single month.
5 They received it after the production month.
6 When I say production month, I mean funded
7 production month.

8 Q So when you say the agreement was
9 complex, what are you referring to?

10 A I meant their split. Let me -- let
11 me clarify that. Their -- their compensation
12 split of splitting comp was not common.

13 Q Yeah, it was 70/30. But that's not
14 complicated, is it? 70 percent versus 30 adds up
15 to 100.

16 MR. PERLOWSKI: Object to the form.
17 Is that a question?

18 BY MS. GIBSON:

19 Q Yeah. I mean, tell me what was
20 complicated about that versus identifying the
21 overrides that were to be paid on these loans and
22 this contract. I -- I don't understand. Tell me
23 what you understood to be complicated about their
24 split.

25 A They had a large territory. They had

1 a lot of loans. Their spreadsheet contained a
2 lot of -- it had a lot of -- a lot of details for
3 them to review, so --

4 Q And so in the end, you took the --
5 the total, and they were just split 70/30; is
6 that correct?

7 A There's a -- there was a recap form,
8 and it outlined loans eligible, not eligible.
9 Kelly received overrides on producing branch
10 managers that Gina did not. Those had a
11 different calculation split. So Gina was part of
12 reviewing that recap each month with Kelly.

13 Q And did Ms. Spearman come to you and
14 ask you, after reviewing those spreadsheets, why
15 she wasn't being paid overrides on the loans
16 identified after 1.4.B?

17 A I don't recall that, no.

18 Q You don't recall any conversations
19 with Ms. Spearman when she came to you and asked
20 you that?

21 A I do not.

22 MR. PERLOWSKI: Object to the form.
23 Foundation.

24 BY MS. GIBSON:

25 Q Do you have any recollection of

1 conversations on the phone with Ms. Spearman --

2 A No.

3 Q -- regarding why she wasn't being
4 paid overrides on the loans under 1.4.B?

5 A No.

6 Q Let's go back to Exhibit 3, where we
7 were at the yes, no, line on Spearman 0672.

8 A Okay.

9 Q Okay. And under 1.4.C, there are
10 several little points, and they say, "The
11 following notice will be deducted from the
12 override bonus calculation." And then they're
13 marked, no, not applicable.

14 So did that mean they were not to be
15 deducted from Ms. Spearman's override bonus
16 calculation?

17 A At the time that this --

18 MR. PERLOWSKI: Object to the form.
19 You can answer.

20 THE WITNESS: At the time that this
21 addendum was prepared in 2016, it's marked "no,"
22 because it did not apply.

23 BY MS. GIBSON:

24 Q Okay. And that's the same with 1.4.D
25 and E, they're both checked "no"; correct?

1 MR. PERLOWSKI: Take your time and
2 look at the document, Ms. Preslo.

3 THE WITNESS: 1.4.D is marked "no"
4 because at the time that this document was
5 prepared in 2016, it did not apply.

6 MS. GIBSON:

7 Q And 1.4.E, is that the same response,
8 did not apply?

9 A Correct.

10 Q Okay. So when NAF HR sent the letter
11 offer regional manager agreement with this
12 Schedule 1 over to Ms. Spearman, did it have any
13 intent on paying the loans identified in those
14 first seven bullet points under 1.4.B?

15 A Can you repeat that, please.

16 Q Sure. So we talked about the
17 documents here being sent to Ms. Spearman by HR
18 and sometime before November 6th when she -- 16th
19 when she signed it.

20 And you testified that 1.4.B is
21 marked "no" and that it just applied to the --
22 and correct me if I'm wrong. I don't want to
23 misstate your testimony -- that it just applied
24 to that last bullet point; is that correct?

25 A 1.4.B. outlines --

1 MR. PERLOWSKI: Object to the form.

2 THE WITNESS: On 0671, 1.4.B outlines
3 the one, two, three, four, five, six, seven,
4 eight bullet points of loans. No override bonus
5 will be paid on the following loans.

6 The yes, no, on page -- the next page
7 is no, specifically to the Schedule 4. There was
8 no Schedule 4 applicable at the time. Specific
9 to Schedule 4, because all of the loan
10 officers -- everyone that came was on guarantees.

11 BY MS. GIBSON:

12 Q So at the time NAF sent this contract
13 to Ms. Spearman, did it have any intent to pay
14 the bonuses under 1.4.B in the first seven bullet
15 points?

16 A No, there was no intention to pay her
17 on those loans. However, please note that she
18 was on a 12-month guarantee.

19 Q Why isn't there a yes, no, under each
20 of those seven bullet points?

21 MR. PERLOWSKI: Object to the form.

22 BY MS. GIBSON:

23 Q You may answer.

24 MR. PERLOWSKI: Speculation. Outside
25 the scope of any representative testimony, as

1 well.

2 MS. GIBSON: I think she was
3 testifying she's -- she testified about contracts
4 and compensation, and so to my --

5 MR. PERLOWSKI: That's -- that's not
6 the topic, MaryBeth, and you know it.

7 MS. GIBSON: Well --

8 MR. PERLOWSKI: There's no topic that
9 says -- compensation, yes. There's no topic that
10 says she's testifying about contracts.

11 MS. GIBSON: Okay. Well, this is
12 about compensation, Henry. Henry, this is her
13 compensation, which you believe --

14 MR. PERLOWSKI: You're asking her --
15 you're asking her why a document wasn't prepared
16 a certain way. That's not a -- that's not a
17 question about --

18 MS. GIBSON: You can answer the
19 question. Your objection is noted. You can
20 answer the question.

21 THE WITNESS: Can you repeat the
22 question?

23 BY MS. GIBSON:

24 Q Yes. Do you know why there's not a
25 yes, no, after each bullet point in 1.4.B?

1 A If we go to the last bullet point,
2 that can change. You can have an individual that
3 might be -- a loan officer that is on a guarantee
4 or not on a guarantee. Number two, brokered
5 loans, there would not be a yes, no, there
6 because there was never -- that was -- every
7 brokered loan that closed, no override was paid.
8 So there's not a purpose for a -- a yes or no.

9 If you want my opinion, I don't
10 prepare these documents. They were prepared by
11 legal HR. But brokered loans never get paid on a
12 brokered loan.

13 Q Did you tell Ms. Spearman that?

14 MR. PERLOWSKI: Object to the form.

15 BY MS. GIBSON:

16 Q You can answer.

17 MR. PERLOWSKI: You mean other than
18 in the contract?

19 THE WITNESS: I don't remember a
20 specific conversation. We had many
21 conversations, and I'm assuming that we would
22 have gone over that, but I don't specifically
23 remember the exact time frame of having the
24 conversation.

25 BY MS. GIBSON:

1 Q Do you agree this -- these provisions
2 under 1.4.B, C, and D are confusing?

3 MR. PERLOWSKI: Object to the form.

4 THE WITNESS: My opinion, are they
5 confusing, no.

6 BY MS. GIBSON:

7 Q Are all regional -- regional managers
8 contracts with this Schedule 1, are they all
9 checked "no" under 1.4.B?

10 MR. PERLOWSKI: Object to the form.

11 THE WITNESS: 1.4.B outlines the
12 loans that are not eligible for an override, and
13 then the schedules that have the schedule -- yes,
14 no, for Schedule 4, 1.4.C, the bullet points
15 after that, yes, that the -- this document with a
16 yes or no is in every regional manager agreement.

17 BY MS. GIBSON:

18 Q Thank you. And is -- in every
19 regional manager agreement, is it checked "no" --

20 MR. PERLOWSKI: Object to the form.

21 BY MS. GIBSON:

22 Q -- under these paragraphs?

23 MR. PERLOWSKI: Object to the form.

24 THE WITNESS: If a regional manager
25 was hired and not on a guarantee, no. It -- it

1 could be yes or no, depending upon guarantee
2 situations. They may have hired loan officers
3 with guarantees or not guarantees.

4 When this document was prepared for
5 Gina Spearman, it is indicated "no," as they were
6 all on guarantees.

7 BY MS. GIBSON:

8 Q Did NAF pay any regional managers or
9 branch managers overrides on any of the loans in
10 those seven bullet points under 1.4.B?

11 A Regional managers -- branch managers
12 were not paid overrides on these loans -- well,
13 on the bullet-pointed loans under 1.4.B.

14 Q Was Eric Fellows ever paid overrides
15 on those loans under 1.4.B?

16 MR. PERLOWSKI: Objection.

17 THE WITNESS: There was an incident
18 with Eric Fellows when he was hired that -- and I
19 was not involved in hiring him. I had never met
20 Eric Fellows.

21 He received, I believe, his manager
22 recap outside of his -- once he was outside of
23 his guarantee period, there were deductions for
24 the guarantee period.

25 Kelly Allison had reached out to me

1 and had indicated that he was really upset about
2 it, didn't understand it, and she could not
3 recollect. She said she had gone -- she wasn't
4 clear if she'd reviewed it with him or not
5 because Eric Fellows was going into -- you know,
6 new to the company.

7 We did make an exception for an
8 initial group that he had recruited for him to be
9 paid overrides for that specific group. So an
10 exception was made, from my recollection.

11 BY MS. GIBSON:

12 Q So NAF -- it was checked "no," but
13 NAF paid Eric Fellows?

14 MR. PERLOWSKI: Object to the form.
15 Mischaracterizes testimony. This is also outside
16 the scope, as Mr. Fellows was not a regional
17 manager. So it's outside the scope of any topics
18 permissible --

19 MS. GIBSON: I just want to be sure I
20 understand that the --

21 MR. PERLOWSKI: -- that the Court
22 ordered with respect to topic six. So I want to
23 assert that. You can answer, Ms. Fellow --
24 Ms. Preslo. Sorry.

25 THE WITNESS: I would have to look at

1 his agreement. I don't know if it -- that -- if
2 it had a yes or a no. I don't know. I'd have to
3 look at it, the exhibit.

4 BY MS. GIBSON:

5 Q So topic 13 is any document from NAF
6 which NAF contends provided written notice to
7 Ms. Spearman regarding changes to her
8 compensation.

9 Are you aware of any documents that
10 NAF contends provided written notice to
11 Ms. Spearman regarding changes to her
12 compensation?

13 A Are you referring to -- okay. If you
14 can -- if I can ask a question. Are you
15 referring to something on this exhibit, or is
16 this a separate question --

17 Q It's a separate question.

18 A -- not applicable to this exhibit?

19 Q Yeah, no, it's a separate question.
20 So topic 13 of the 30(b)(6) Notice identified you
21 as a witness having knowledge of any document
22 from NAF that it contends provided written notice
23 to Ms. Spearman regarding changes to her
24 compensation.

25 So after this agreement and before

1 the -- there -- I understand there was a March 1,
2 2020, amendment, and we're going to talk about
3 that, are you aware of any documents that
4 provided written notice to Ms. Spearman regarding
5 changes to her compensation?

6 A If there were changes, I don't
7 recollect off the top of my head. But the
8 process would be to have a conversation with the
9 regional manager of the changes. Not all changes
10 are bad. Some changes are positive. So a
11 conversation would be had about a compensation
12 change, and then HR would prepare that document
13 and send it to the employee.

14 Q And that's what happened every time
15 there was a change to a, you said, employee's
16 compensation?

17 A To -- you know, specific to an
18 override bonus, their manager compensation. I
19 mean, yes.

20 Q So specifically, then, with respect
21 to Ms. Spearman, are you aware of any documents
22 that NAF contends provided written notice to
23 Ms. Spearman regarding changes to her
24 compensation?

25 A In regards to the override bonus?

1 Q Yes.

2 A Her split with Kelly Allison, if
3 there was changes to a split, that would have
4 been -- the process would have been to have that
5 discussion with her, and the document would have
6 been prepared and sent by HR.

7 Q So was there any change to her
8 compensation before March 1, 2020?

9 A There was a change in regards to --
10 we had a change in regards to they waived
11 overrides. And written in their agreement is you
12 can waive overrides by written note -- with a
13 manager agreeing to that. There was a change.
14 It was through the process of agreeing to waive
15 your override. It's in the agreement that the
16 regional manager can agree to waive your override
17 on -- on a specific loan.

18 At the time prior to around March
19 2019, there was a favorable change that our --
20 our HR department, along with legal, said a
21 regional manager can waive a portion of their
22 override but not all of it.

23 So to give you an example, my
24 override could be \$200. Previously, our
25 requirement was that if a regional manager agreed

1 to waive -- to my override, I would have to forgo
2 \$200. But regional manager overrides was deemed
3 to be able to be waived in increments, so it
4 was in a -- it was in a regional manager's favor.

5 Q And you said in this document, this
6 contract with Ms. Spearman, it says that they can
7 waive their override?

8 A Yes.

9 Q Okay. My question is a little
10 different. Did NAF ever issue a written document
11 that changed the terms of Ms. Spearman's
12 compensation in Schedule 1?

13 A Okay. The Schedule 1 refers back to
14 the loans that they did not get paid an override
15 on and the yes, no, boxes that are applicable to
16 those loans. So she would have received updates,
17 based on hiring loan officers within that
18 guarantee period. So, yes, she would have
19 received updates to her compensation to the
20 Schedule 1 after her hire date.

21 Q Can you explain to me what you mean
22 by an update? Is that an email that says, we're
23 paying you this based on the people you hired? I
24 don't understand what an update is.

25 MR. PERLOWSKI: Yeah, hold on a

1 second. Object to the form. I'm not sure if at
2 all -- I don't know whether that was a
3 declaratory sentence or a question.

4 MS. GIBSON: It was a question. What
5 is an update?

6 MR. PERLOWSKI: You said I -- you
7 said you don't understand, with a question mark
8 at the end. I'm not sure that's --

9 MS. GIBSON: I said I don't
10 understand, can you explain to me what an update
11 is.

12 MR. PERLOWSKI: Okay. Fair enough.
13 That is a question.

14 MS. GIBSON: Yes. Thank you.

15 BY MS. GIBSON:

16 Q Go ahead, Ms. Preslo.

17 A A loan officer -- I just -- I want
18 to -- let me finish.

19 Q You may answer.

20 A Okay.

21 Q If you can explain to me what you
22 meant by --

23 A I'm trying to -- I'm trying to
24 explain it to you, so give me a moment. So I
25 hire -- a loan officer is hired. You hire Jan

1 Preslo. Jan Preslo was a \$20,000-a-month
2 guarantee for two months. I start on Monday.

3 An update would be an amendment where
4 the Schedule 4 would be updated, including Jan
5 Preslo on that schedule, that I'm not going to
6 receive an override. The manager is not going to
7 receive an override, because it's over \$5,000,
8 during the guarantee period, unless that
9 guarantee is exceeded.

10 So that's what I mean when I say an
11 -- you know, an update.

12 Q So an update, by your example, just
13 so I understand -- this is a question. An
14 update --

15 A And I'm -- and I'm going to ask, when
16 we finish this, if we can take a break.

17 Q No, of course. No.

18 A Because we've been going for almost
19 an hour a half.

20 Q Yeah.

21 A If that's okay with you.

22 Q That's perfect. Whenever you need a
23 break.

24 So an update -- an example of an
25 update would be a Schedule 4; is that correct?

1 A That is an example, yes, ma'am.

2 Q And just one more question, before we
3 break, on this topic. And would -- in Schedule
4 1, would that box under 1.4.B need to be checked
5 "yes" to allow NAF to issue updates?

6 MR. PERLOWSKI: Object to the form.
7 You can answer.

8 THE WITNESS: So going back to the
9 Schedule 1. And your specific question is to
10 the -- hold on.

11 BY MS. GIBSON:

12 Q Well, let me try and clarify it. You
13 said Schedule 4 are examples of updates that you
14 would give --

15 A Uh-huh (affirmative).

16 Q -- to regional managers. Well, to be
17 able to give those updates, would -- would 1.4.B
18 need to be checked "yes"?

19 A The para- --

20 MR. PERLOWSKI: Object to the form.

21 THE WITNESS: Under 1.4.B for --
22 specific to the yes, no, question on Schedule 4,
23 the process for HR would be to amend the
24 agreement, update the agreement, for the "yes" to
25 be checked.

1 BY MS. GIBSON:

2 Q To allow NAF -- and that would be --
3 okay. So I understood.

4 And that would then allow NAF to
5 issue the updates that you call Schedule 4s;
6 correct?

7 A Yes, ma'am.

8 Q Okay. One more question. Did NAF
9 amend the Schedule 1 and give it to Ms. Spearman
10 where Schedule 1 was checked "yes"?

11 A I would -- I don't have the exhibit
12 in front of me, but I'm sure it would have -- or
13 I'm sure HR would have updated this to a "yes."

14 Q Okay. And would they -- so I guess
15 I'll have to ask someone in HR, but would --
16 maybe you can answer. Would -- if -- you
17 testified the process is you have a conversation,
18 HR prepares the document, this -- this new
19 Schedule 1 checked "yes," and would send it to
20 Ms. Spearman. Would she then DocuSign it and
21 send it back?

22 A Signing of the document isn't
23 required. The document -- the document is sent
24 by HR. Most employees, by practice, typically
25 will execute it.

1 Q Does HR sign it? Like, Mr. --

2 A I don't know. I don't -- I'm not
3 involved in preparing the documents that HR
4 sends, so I -- I mean, that would really be a
5 question that would need to be presented to HR.

6 Q Okay.

7 A But it's coming from HR, being
8 DocuSigned. So, to me, in my mind, okay, HR is
9 sending it via DocuSign, so HR would have had to
10 prepare it. I don't think we require HR to
11 execute. It would --

12 Q So do you have HR send it so that you
13 have -- so that you know it's been sent to your
14 employee?

15 A HR sends the document. I don't --
16 I'm not understanding. And I -- if we could take
17 a break?

18 MS. GIBSON: Yeah. Okay. Let's take
19 a break.

20 THE WITNESS: Okay. Thank you. I
21 really appreciate it.

22 MS. GIBSON: We can go off the
23 record.

24 (Proceedings in recess, 1:23 p.m. to
25 1:40 p.m.)

1 BY MS. GIBSON:

2 Q Ms. Preslo, were you always paid on a
3 salary from profit model?

4 MR. PERLOWSKI: Objection. Asked and
5 answered. Go ahead.

6 THE WITNESS: So I need to correct
7 that. I've been with the company for 10 years.
8 So I initially was paid a salary, plus a flat
9 override bonus that was not tied to
10 profitability. And there was -- I don't remember
11 the exact time frame, but it was -- my
12 compensation was later amended to a salary, and
13 the -- a percentage of profitability. So there
14 was a -- I was not always paid on profitability.

15 BY MS. GIBSON:

16 Q When approximately did that happen?

17 A I -- I should probably know, but I --
18 I'd have to go back and look through my own
19 contract to give an -- an exact date on that.

20 Q Do you remember if it was before
21 Ms. Spearman was hired or after Ms. Spearman
22 was -- I'm just looking for a general time.

23 A It was after.

24 Q After she was hired that you went
25 to --

1 A I -- yes, it would have been after.

2 Q Okay. And you said you'd have to go
3 look at your amended contract to know when that
4 was?

5 A To -- to give you an exact. To
6 answer an exact time frame.

7 Q Okay. So when they changed -- when
8 NAF changed your compensation, it amended your
9 contract to reflect that?

10 A There was a conversation with me
11 about it, and I received, you know, update or an
12 amended agreement from human resources.

13 Q Okay. And so when you said you went
14 to a salary and a bonus -- I mean, I'm sorry --
15 and salary and profit model -- I don't want to
16 misstate testimony. So would you -- if the
17 company was profitable, you did -- would you
18 receive a bonus?

19 A My compensation -- my compensation
20 was specifically tied to the outside retail
21 division, not the company profit.

22 Q Got you. So if outside retail was
23 profitable, you would receive a bonus?

24 A Yes.

25 Q When was the last time you received a

1 bonus based on outside retail's profitability?

2 A In current time frame?

3 Q Uh-huh (affirmative).

4 A I have a -- in my position, I have a
5 compensation cap. And then my last -- for
6 profitability, you know, the last profit bonus
7 that I received was in October of last year.

8 Q Did you receive one -- so last year
9 is '21. Did you receive one in, let's say -- did
10 you receive one in 2018?

11 A In 2018, I'm going to -- I need to --
12 I'm hesitating on answering because I'm not --
13 I'm hesitating on answering because I don't
14 remember the exact year that I went to a profit
15 component, so I'm concerned I'm going to misspeak
16 and give an incorrect answer.

17 Q So when you went to a profit
18 component, did you just receive the -- the bonus
19 once a year or was it quarterly or how -- or
20 monthly? How was -- how was that paid?

21 A My profit component was month -- it
22 was monthly, but it -- it followed -- it was
23 based off of the time frame of the P&L being
24 prepared.

25 Q Okay.

1 A Meaning that it was typically two
2 months lagging.

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Q Okay. What's your current residence address?

A 405 Calle De Aragon, Redondo Beach, California 90277.

Q I love Redondo Beach. Sorry. Offtrack, off topic.

Do you have any military experience?

A No.

Q Have you ever been arrested?

A No.

Q Are you currently married?

A Yes.

Q And what is your spouse's name?

A Kenneth Preslo.

Q Have -- do you have any former marriages?

A No.

Q And where is your husband employed?

A He's self-employed.

Q What does he do?

A He is a developer.

Q And do you have any children?

A Yes.

1 Q How many?

2 A One.

3 Q What is your child's age?

4 A He is 11.

5 Q Do you have any relatives in Fulton
6 County, Georgia?

7 A I have relatives, yes. I'm from
8 Georgia originally, so I do have relatives spread
9 out through Georgia.

10 Q What are their names?

11 A I have a lot.

12 Q Can you tell me their last names?
13 This is for purposes of trial.

14 A Okay. My maiden name is Britt,
15 B-R-I-T-T. And Wade. Those are immediate family
16 names.

17 Q Okay. Any others?

18 A Brooks, B-R-O-O-K-S. Elliott.

19 Q Elliott?

20 A Yes. Those are immediate aunt, uncle
21 names.

22 Q Do any reside in Fulton County,
23 Georgia?

24 A I had a cousin. I believe, that he
25 is in Fulton County, Georgia, yes.

1 Q What is his name?

2 A Ron Tuck.

3 Q How do you spell that last name?

4 A T-U-C-K.

5 Q Any other relatives in Fulton County?

6 A I have a cousin, I believe, that's in
7 Fulton County. Another cousin, Dana Elliott.

8 Q How do you spell that last name?

9 A E-L-L-I-O -- I think it's a double T.

10 Q Okay. Elliott. Sorry.

11 A Elliott. Sorry.

12 Q Anyone else?

13 A Off the top of my head, no.

14 Q Okay. You said you were born in
15 Georgia?

16 A Yes, ma'am.

17 Q Where were you born?

18 A In Lawrenceville, Georgia.

19 Q How long did you live in Georgia?

20 A I lived in Georgia through -- through
21 1987.

22 Q When you left Georgia, did you leave
23 to go to California?

24 A Yes, ma'am.

25 Q And was that to be employed by NAF?

1 A No, it was -- I was employed by Chase
2 Bank.

3 Q Okay. Where did you go to college?

4 A Georgia State University.

5 Q And what -- did you obtain a degree
6 there?

7 A No. I got caught up in the mortgage
8 business as a junior in college.

9 Q Okay. And who was the -- who did you
10 go to work for when you left Georgia State?

11 A Oh, my original job was with a
12 company called Reliance Trust Company and Credit
13 Union. And from that, I worked for a Chase -- at
14 the time, it was called Chase Home Loans, which
15 was a division of Chase Bank.

16 Q And where did you go after Chase Home
17 Loans?

18 A Countrywide.

19 Q I know you've told me some of your
20 former employers, but from Countrywide, where did
21 you go?

22 A I went to a company called Guild
23 Mortgage for two years, and then I was recruited
24 back to Countrywide.

25 Q And where did you go after that?

1 A Bank of -- Countrywide was acquired
2 by Bank of America.

3 Q Okay.

4 A And that is when I became a Bank of
5 America employee.

6 Q Got you. And then from -- I think
7 you told me from Bank of America, you were
8 recruited to NAF?

9 A No. I went to MetLife home loans,
10 which was a division of the MetLife companies.

11 Q Okay. Are you a member of any civic
12 organizations in Tustin?

13 A No.

14 Q Are you a member of any church?

15 A Presently, yes.

16 Q What's the name of that church?

17 A Riviera United Methodist Church.

18 Q Okay. Have you ever been a party to
19 a lawsuit?

20 A Yes.

21 Q Individually or as an employee of a
22 company?

23 A Individually.

24 Q And what was that about?

25 A I was the plaintiff with my husband

1 over a development project.

2 Q So that related to his employment?

3 A He's self-employed. It was related
4 to a land acquisition.

5 Q Okay. And did that go to trial?

6 A It did go to trial.

7 Q And how was that resolved?

8 A We were -- we won the trial.

9 Q Was there a jury or was it a bench
10 trial?

11 A It was a bench trial. It was bench.

12 Q Is that the only lawsuit you've ever
13 been in?

14 A That is the only lawsuit I've ever --
15 correct, yes.

16 Q Okay. Have you ever given your
17 deposition testimony before today?

18 A Yes.

19 Q When?

20 A I have had one with New American
21 Funding, and I was deposed in the personal
22 lawsuit, and I was deposed at Countrywide Home
23 Loans.

24 Q And what did the litigation at
25 Countrywide Home Loans involve?

1 A It was involving a customer complaint
2 over, from my memory, a expiration of a LOC and a
3 dispute over damages that were deemed by the, you
4 know, plaintiff on that LOC expiration.

5 Q And how was that resolved?

6 A I believe Countrywide --

7 MR. PERLOWSKI: Ms. Preslo, let me --
8 if the -- if the resolution is confidential, I
9 ask that you not disclose that.

10 THE WITNESS: Oh.

11 MR. PERLOWSKI: If it's --

12 THE WITNESS: I don't remember. It
13 was many, many years ago, so --

14 BY MS. GIBSON:

15 Q Did it go to trial?

16 A It did not go to trial.

17 Q Was it settled?

18 A You know, I was a witness to that, I
19 mean, at the depo. I don't -- I do not remember
20 if it was settled. I don't -- I don't remember
21 the outcome of it --

22 Q Okay.

23 A -- 100 percent because that was many,
24 many, many, many years ago.

25 Q And how long ago was the litigation

1 where you gave a deposition for NAF?

2 A I want to -- I -- more than five
3 years ago. I don't remember the exact date.

4 Q And what did that involve?

5 A That involved our regional manager of
6 our Colorado region regarding violating a
7 noncompete.

8 Q Did that go to trial?

9 A I -- I wasn't involved in attending
10 any kind of trial for that. So I'm not -- I
11 don't know if it was settled or if it went to
12 trial.

13 MR. PERLOWSKI: Same caution,
14 Ms. Preslo, about revealing any confidential
15 settlement terms, to the extent they are
16 confidential.

17 BY MS. GIBSON:

18 Q How did you learn about this lawsuit?

19 A This Spearman case?

20 Q Ms. Spearman's, yes.

21 MR. PERLOWSKI: And one second,
22 Ms. Preslo. If you learned about -- if you
23 learned about the lawsuit from counsel, I would
24 just ask that you say that and not reveal any
25 communications that you had with counsel.

1 BY MS. GIBSON:

2 Q And, Ms. Preslo, if I haven't made it
3 clear before, I'm not going to ask you anything
4 that you discussed with your lawyer. So -- and
5 Henry will certainly object and tell you what
6 he's just told you. But I'm not asking you for
7 the contents of any discussions with your
8 lawyers.

9 A I was made aware of the lawsuit from
10 counsel.

11 Q Okay. What did you do to prepare for
12 your deposition today?

13 A I've had Teams meetings, Zoom
14 meetings with counsel.

15 Q Which counsel?

16 A That would be counsel with New
17 American Funding and the law firm that Henry
18 works for.

19 Q When did you have these meetings?

20 A I don't know the exact, you know,
21 date of those meetings.

22 Q How long did you meet with counsel to
23 prepare?

24 A From an hour perspective?

25 Q Uh-huh (affirmative).

1 A Two hours, maybe three.

2 Q Two to three hours total to meeting
3 with your lawyers to prepare for your deposition?

4 A Yes, ma'am.

5 Q Okay. Did you have conversations
6 with anyone else outside of your counsel?

7 A I have not.

8 Q Okay. Have you read any transcripts
9 of depositions of anyone in this litigation?

10 A I have not.

11 Q Did you review any documents with
12 your counsel to prepare for your deposition?

13 A I have reviewed documents.

14 Q What documents have you reviewed?

15 A I've reviewed Gina Spearman's letter
16 of employment and her various different exhibits.

17 Q Exhibits to --

18 A I also have reviewed the manager --
19 one to two manager recaps.

20 Q The manager -- I don't understand
21 what you just said. You've reviewed the manager
22 recaps. What are those?

23 A The -- the override bonus.

24 Q The BMAM --

25 A Yes, ma'am.

1 Q -- spreadsheets that we were talking
2 about earlier?

3 A Yes, ma'am.

4 Q Okay. Got you. Did you attend the
5 leadership meeting in February of 2019?

6 A Yes.

7 Q Who else attended?

8 A The attendees were the -- we call
9 them senior vice presidents, SVPs. Gina Spearman
10 attended with Kelly Allison. Christy Bunce,
11 Jason Obradovich, Jim Muth, and Rick and Patty
12 Arvielo.

13 Q So you said SVPs. Who were those
14 that attended?

15 A Milton Karabites, Tony Blodgett,
16 Kelly Allison, Gina Spearman, Hamid Hamrah, Chris
17 Garza, and --

18 Q Did Jon Reed attend? Pardon?

19 A Yes. And Jon Reed --

20 MR. PERLOWSKI: Ms. Preslo, were you
21 finished with your answer?

22 THE WITNESS: And I believe Eli
23 Fairfield.

24 BY MS. GIBSON:

25 Q What was the format of the meeting?

1 A The format of the meeting was to
2 bring -- the SVPs, as we have referred to them,
3 are higher leaders that run larger, you know,
4 territories. And the purpose of the meeting was
5 to bring the SVPs in to have a conversation with
6 them about the 2018 P&L, the changes that were
7 made to that P&L in January of 2019, and to
8 review with them a plan to hire a CFO and to work
9 on -- all the SVPs had requested to be on P&Ls
10 and to have those conversations with the SVPs in
11 person.

12 Q Did Ms. Spearman request to be on a
13 P&L?

14 A I don't specifically remember Gina
15 requesting to be on a P&L, but it definitely had
16 been conversations with Kelly Allison on, you
17 know, moving to a P&L.

18 Q Okay. So not all SVPs requested to
19 be on a P&L?

20 A I don't recollect every single one,
21 as far as if they wanted to be on a P&L or not.

22 Q Okay.

23 A The majority of the -- did from my
24 memory. I can't remember specifically exactly
25 who.

1 Q And where was the meeting held?

2 A It was held in our Tustin
3 headquarters. Tustin, California.

4 Q Okay. Did you speak at the meeting
5 with everyone present?

6 A The meeting was ran by Christy Bunce
7 and involved Jim Muth, as our finance department.
8 And -- and presenting, I didn't have a prepared
9 presentation, but we were all in the room
10 together having conversations. So I'm -- did I
11 speak at the meeting, yes.

12 Q Okay. But you did not stand up and
13 do a presentation?

14 A No.

15 Q Okay. Did Rick Arvielo speak at the
16 meeting?

17 A Everyone that attended that meeting,
18 we all had conversations, and we were all
19 talking. It wasn't a -- but I don't recollect
20 him doing any sort of presentation.

21 Q Did he make any announcements
22 regarding changes to compensation at the meeting?

23 A What was -- Rick Arvielo? No.

24 Q Did Patty Arvielo make any --

25 A She --

1 Q -- announcements regarding changes to
2 compensation?

3 A Patty did not make any comments
4 regarding changes to compensation.

5 Q Who did make announcements regarding
6 changes to compensation?

7 A What was changed was -- there
8 wasn't a change in compensation that was made.
9 It was a discussion around the expenses that
10 should be allocated to the outside retail
11 division, that marketing expenditures were not
12 going to be reimbursed.

13 And that's -- and that the plan was
14 to hire a CFO that would be tasked with working
15 with the SVPs on moving to a P&L platform for
16 compensation versus flat basis points override.

17 Q So at the time of this meeting, NAF
18 did not have a CFO?

19 A No.

20 Q Who was preparing the P&Ls for 2018?

21 A Those were prepared by our finance
22 department.

23 Q Who was in the finance department?

24 A I don't know names off of the top of
25 my head. Our -- my main point of contact was a

1 gentleman by the name of Jim Muth.

2 Q Jim Muth?

3 A M-U-T-H.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 BY MS. GIBSON:

25 Q Is a division something different

1 from outside retail, or are you --

2 A No.

3 Q -- using them interchangeably?

4 A I'm using them interchangeable. It
5 was outside retail.

6 Q Okay. I just wanted to be sure.

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
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BY MS. GIBSON:

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6

Q Okay. And these were prepared by the finance department; is that correct?

7

A Yes.

8

9

Q Were they provided -- they were provided to -- were they provided to you?

10

A They were provided to me, yes.

11

Q Were they provided to Ms. Bunce?

12

A Yes.

13

Q Were they provided to the Arvielos?

14

A I can't answer that. I --

15

Q Okay.

16

17

A I don't know what the Arvielos reviewed.

18

Q I'm sorry?

19

20

A I do not know what they reviewed or did not review.

21

22

Q Okay. Were they provided to Obradovich?

23

A Yes.

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BY MS. GIBSON:

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Q And what was the point of the leadership meeting in 2019 with these individuals, the SVPs and the other people you identified?

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3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

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14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

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21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

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9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

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14 [REDACTED]

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16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

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6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1

2

A Yes.

3

MR. PERLOWSKI: Object to the form.

4

BY MS. GIBSON:

5

Q Was that a slide show or was that a
6 handout?

7

A My recollection, it was a handout.

8

9

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20

Q Okay. Have you spoken -- did you --
have you spoken to Jon Reed since he left NAF?

21

A No.

22

23

24

Q Did you do anything to prepare for
that 2019 leadership meeting before it was headed
off?

25

A Repeat that question.

1 Q Yeah. Did you do anything to prepare
2 for the meeting, the 2019 leadership meeting?

3 A The package that was presented at the
4 meeting was prepared by the finance department,
5 and I'm sure Jon and I reviewed that prior to the
6 meeting because it was being presented at the
7 meeting, and we had our SVPs coming into that.

8 So I'm sure I would have reviewed
9 that prior to -- to that meeting. I was not
10 involved in preparing the package.

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 BY MS. GIBSON:

18 Q What did that package -- do you
19 remember what the package -- you reviewed it.
20 What did it say?

21 MR. PERLOWSKI: Object to the form.

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 Q At this meeting, did NAF announce
14 that the marketing -- that Ms. Spearman and
15 Ms. Allison and other SVPs' marketing budgets
16 were eliminated?

17 A Yes.

18 Q Who made that announcement?

19 A From my recollection, I believe it
20 was Christy Bunce.

21 Q Do you remember what she said?

22 A The discussion was around
23 eliminating, you know, marketing budgets and that
24 the company was pursuing interviewing, you know,
25 CFOs, a CF -- a CFO for the company, and that the

1 SVPs would be moving to a P&L plan eventually and
2 that there would be engagement with the SVPs on
3 that plan. And there would be input on the plan
4 from the SVPs and that the goal was to -- at some
5 point in 2019, to -- there was not a specific
6 time frame.

7 Sometime in 2019, we'd be moving to a
8 P&L plan, and because of that, there would be
9 discussions around creating new marketing budgets
10 or establishing new marketing budgets.

11 Q Did Ms. Bunce or anyone else say this
12 would be for a period of 90 days that the
13 marketing budget would be eliminated?

14 A I have no recollection of there being
15 a 90-day time period mentioned.

16 Q Were you present at any time when
17 Ms. Arvielo told Ms. Spearman that it was just
18 for a period of 90 days?

19 A No.

20 MR. PERLOWSKI: Objection.
21 Foundation.

22 THE WITNESS: I mean --

23 BY MS. GIBSON:

24 Q Did -- did NAF announce that it would
25 just be for a short period of time?

1 MR. PERLOWSKI: Object to the form.

2 You can answer.

3 THE WITNESS: My recollection was
4 that the company was in a process of interviewing
5 a CFO and that the main objection or duty of that
6 CFO was to prepare P&L plans for the SVPs. I
7 don't recollect there being any time frame of
8 saying 90 days or it's going to be coming soon.
9 The discussion was around, again, this particular
10 CFO -- the CFO being hired to move the SVPs to a
11 P&L platform.

12 BY MS. GIBSON:

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q Is there a reason why the finance
21 department couldn't create the P&L plan?

22 MR. PERLOWSKI: Object to the form.
23 Speculation. Answer if you can.

24 THE WITNESS: I mean, I've not worked
25 in finance department. I don't have a finance

1 degree. So I don't feel that I'm the best to
2 answer that.

3 BY MS. GIBSON:

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 BY MS. GIBSON:

18 Q Okay. Did it come -- did the
19 announcements made at the leadership meeting come
20 as a surprise to the SVPs --

21 MR. PERLOWSKI: Object to the form.
22 Speculation.

23 BY MS. GIBSON:

24 Q -- removal of the marketing budget --

25 MS. GIBSON: Henry, let me finish.

1 BY MS. GIBSON:

2 Q -- the removal of the marketing
3 budget?

4 MR. PERLOWSKI: Objection.
5 Speculation. Answer if you can. And my
6 apologies. I thought you were finished.

7 THE WITNESS: Okay. I'm -- I don't
8 think that I can speak on behalf of how someone
9 felt.

10 BY MS. GIBSON:

11 Q What was their reaction?

12 A When there is a change that a
13 human -- and since you're asking for my opinion,
14 it's human nature when you are advised that you
15 are no longer going to be able to receive
16 reimbursement for something that you were
17 reimbursed for, would anyone be happy to receive
18 that message? I think that logical answer to
19 that is no. Many -- but I will interject that
20 some of the SVPs did not spend as much as others
21 on marketing.

22 Q Did some spend more because their
23 loan volume was so much higher?

24 MR. PERLOWSKI: Object to the form.
25 Speculation. Answer if you can.

1 THE WITNESS: Repeat the question.

2 BY MS. GIBSON:

3 Q Did -- you said some SVPs spent more
4 on marking than others; is that correct?

5 A Yes.

6 Q Was that related to their loan
7 volume?

8 A Not entirely, no.

9 Q Okay. Was Gina and Kelly's marketing
10 budget tied to their loan volume?

11 MR. PERLOWSKI: Object to the form.
12 Foundation.

13 THE WITNESS: When Kelly Allison
14 joined New American Funding, part of her
15 negotiation at the time was to include a
16 marketing budget. And from my recollection, it
17 was tied to volume.

18 BY MS. GIBSON:

19 Q So is high loan volume good?

20 A So when you're asking a question is
21 high loan volume good, in the mortgage space, to
22 have a very easy answer, having good loan volume,
23 having a high volume, which can be -- vary from
24 company to company on what someone thinks is high
25 volume, but generally speaking, yes, having a

1 higher dollar amount in volume is positive.

2 Q So did -- you commented or you
3 testified that some SVP's marketing expenses were
4 higher than others; correct?

5 A Yes.

6 Q Were Gina and Kelly's marketing
7 expenses high -- higher than others?

8 A They were the highest in the outside
9 retail division.

10 Q And NAF gave Ms. Allison and
11 Ms. Spearman a marketing budget of 7.5 BPS or
12 .075 percent of their loan production; correct?

13 MR. PERLOWSKI: Object to the form.
14 Foundation.

15 THE WITNESS: That marketing budget
16 was negotiated by Kelly Allison --

17 BY MS. GIBSON:

18 Q Right.

19 A -- based on the loan volume of their
20 southeast team --

21 Q Uh-huh (affirmative).

22 A -- that they managed.

23 Q Okay. So you agree that NAF gave
24 them .075 percent of their loan production in
25 their marketing budget?

1 MR. PERLOWSKI: Object to the form.
2 Foundation.

3 MS. GIBSON: Well, we can introduce
4 the responses to the request to admit that state
5 and it's in Kelly's contract. And I'm just
6 trying to confirm what their marketing budget
7 was.

8 MR. PERLOWSKI: You can introduce
9 anything you want. I'm going to assert the same
10 foundation objection because you're
11 mischaracterizing documents over and over again
12 intentionally.

13 MS. GIBSON: Can you introduce the
14 responses? If you want to refresh your screen,
15 it should be loaded.

16 MR. PERLOWSKI: I only have Exhibits
17 1, 2, and 3 when I reloaded. Are we introducing
18 a fourth?

19 MR. HARGROVE: Yes.

20 MR. PERLOWSKI: Let me do it again.

21 THE WITNESS: I'm only seeing 1, 2,
22 and 3.

23 MR. HARGROVE: Do it now.

24 MS. GIBSON: Try now.

25 MR. PERLOWSKI: Yep.

1 THE WITNESS: I have -- there's an
2 Exhibit 4.

3 (Whereupon a document was identified as
4 Exhibit 4.)

5 BY MS. GIBSON:

6 Q And it should be titled Defendant
7 Broker Solutions, doing business as New American
8 Funding's Responses and Objections to Plaintiff
9 Gina Spearman's First Requests for Admission.

10 Do you see that?

11 A Yes.

12 Q And you remember we looked at Exhibit
13 1, which are the deposition topics, and you were
14 designated to testify to the nature and scope of
15 NAF's practices for reimbursing marketing
16 expenses. So I want to take you to page 4 of
17 Exhibit 4.

18 A Are you asking a question or --

19 Q No, I just want to know when you get
20 to page 4 of Exhibit 4.

21 A Oh, I'm sorry. Page 4?

22 Q Uh-huh (affirmative).

23 A I'm on page 4. I'm sorry.

24 Q Okay. And if you look at request for
25 admission number 11.

1 A Uh-huh (affirmative).

2 Q It says that --

3 A Yes.

4 Q -- that from November 2016 through
5 February 2019, Ms. Spearman's marketing budget
6 was 7.5 BPS or .075 percent of her loan
7 production, and the response by NAF is admitted.
8 Do you see that?

9 A Response admitted?

10 Q Uh-huh (affirmative).

11 A Yes, ma'am.

12 Q Okay. So does that refresh your
13 memory or your recollection that Ms. Spearman's
14 marketing budget was .075 of her loan production?

15 A The marketing budget --

16 Q Uh-huh (affirmative).

17 A -- was negotiated by Kelly Allison,
18 and it was seven and a half BPS of the total
19 production that both Kelly and Gina managed.

20 Q Okay. That's all I'm trying to get
21 at.

22 A Okay.

23 Q 7.5 BPS. Thank you.

24 A Uh-huh (affirmative).

25 Q And you testified earlier that they

1 had the highest marketing expenses of all SVPs?

2 A From my recollection, yes.

3 Q Okay. And the marketing budget was
4 eliminated at this 20 -- February 2019 leadership
5 meeting; is that correct?

6 A Yes.

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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BY MS. GIBSON:

10

Q What was the other --

11

A The company -- the company has the --

12

New American Funding has the right to make -- you

13

know, they could announce that this is what we're

14

changing, we're not going to be reimbursing for

15

marketing expenses.

16

Q Did NAF ever rewrite the contract to

17

eliminate the 7.5 percent BPS from Kelly's

18

contract?

19

A That seven and a half percent budget

20

was in her contract, in her -- in her contract or

21

offer letter. I don't recollect if there was any

22

type of addendum that was sent to her. I do know

23

it was communicated that it was being changed or

24

being eliminated.

25

Q So in response to my question

1 earlier, you testified that the P&Ls were part of
2 the reason marketing budget was eliminated. What
3 is the rest of the reason why it was eliminated?

4 A I mean, the plan that the SVPs were
5 on at that time was based on flat basis points.
6 There was not a participation either favorable or
7 not, you know, in profitability. And so the
8 company made a business decision to no longer,
9 you know, reimburse for marketing expenses.

10 Q And you testified you don't recall
11 the time period for the marketing budget being
12 eliminated, that that -- that a time period was
13 announced; is that correct?

14 A I think your question was, was it
15 announced when they would be brought back. I
16 don't -- I -- I'm not understanding.

17 Q Did Mrs. Arvielo --

18 A I need to ask you to repeat because
19 I -- I'm not understanding the question.

20 Q Yeah. Was there a time period?
21 Was -- was it announced that we're just going to
22 take these away for a short period?

23 A There was no announcement that there
24 were --

25 MR. PERLOWSKI: Object to the form.

1 Asked and answered. I'm sorry, Ms. Preslo. Go
2 ahead.

3 THE WITNESS: There was not any
4 announcement of a time period indicated.

5 BY MS. GIBSON:

6 Q Were you present for every -- strike
7 that.

8 Is it possible it was announced when
9 you weren't present?

10 MR. PERLOWSKI: Object to the form.
11 Speculation. You can answer.

12 THE WITNESS: Repeat that question.

13 BY MS. GIBSON:

14 Q Is it possible it was announced that
15 this was for a short time period when you were
16 not present?

17 MR. PERLOWSKI: Objection.
18 Speculation. Foundation. You can answer.

19 THE WITNESS: I'm not sure how to
20 answer a question that's asking me if something
21 could have been discussed when I wasn't present
22 when individuals are having conversations.

23 BY MS. GIBSON:

24 Q So you weren't present in every
25 conversation with Ms. Spearman and Ms. Arvielo

1 during that leadership meeting, were you?

2 A I was present during the meeting.

3 Q Uh-huh (affirmative).

4 A There was a lunch break. There was
5 breaks where I wasn't in the room.

6 Q So you don't know that if Ms. Arvielo
7 told Ms. Spearman it was just for 90 days?

8 MR. PERLOWSKI: Object to the form.
9 Foundation.

10 BY MS. GIBSON:

11 Q That's fine. You can answer.

12 A I'm sorry. Repeat the question.

13 Q You do not know if Ms. Arvielo told
14 Ms. Spearman it was for a period of 90 days?

15 MR. PERLOWSKI: Same objection. You
16 can answer.

17 THE WITNESS: I'm not aware of Patty
18 Arvielo making that comment to Gina Spearman.

19 BY MS. GIBSON:

20 Q Did you ever ask her if she made that
21 comment to Ms. Spearman or Ms. Allison?

22 A No.

23 Q Was there an announcement made
24 regarding pricing tolerances for pricing
25 exceptions?

1 A It was announced at the meeting that
2 pricing exception tolerances were going to be
3 reviewed by region. And I believe in that
4 meeting, it was announced of those pricing --
5 those pricing exception tolerances when the SVPs
6 made the decision to -- and it's their decision
7 to exceed those pricing exceptions -- that they
8 would be able to approve those pricings
9 exceptions and -- over their specified tolerances
10 and would no longer have to waive an override at
11 100 percent. It could be in dollar increments.

12 Q You want to go ahead and refresh your
13 screen. We added another Exhibit 5.

14 MR. PERLOWSKI: MaryBeth, before we
15 go to the Exhibit 5, can we just take a short --
16 a very short break?

17 MS. GIBSON: Yep.

18 MR. PERLOWSKI: Thank you.

19 (Proceedings in recess, 2:47 p.m. to
20 3:04 p.m.)

21 Whereupon a document was identified as
22 Exhibit 5.)

23 THE WITNESS: Exhibit 5?

24 MS. GIBSON: Uh-huh (affirmative).

25 THE WITNESS: Okay. I --

1 BY MS. GIBSON:

2 Q Do you have it up?

3 A Yes, ma'am.

4 Q Okay. So this is an email dated
5 March 29, 2019, from Patty Arvielo to Jon Reed
6 and Jan Preslo, and it says see below. And just
7 take -- if you'll just look at it, the very
8 bottom, Patty Arvielo is email -- onto the next
9 page, she says, "Hi, I wanted you to know we will
10 make zero exceptions to our PE roles. They are
11 fair beyond what any other company would do.
12 Policy is policy. I want zero exceptions."

13 And Jason responds, "We will enforce
14 it 100 percent."

15 And then Patty forwards that to you.
16 What were the new -- what were the PE roles?

17 A So --

18 MR. PERLOWSKI: Objection. Go ahead.

19 THE WITNESS: -- each region has
20 what's called pricing exception tolerance, and if
21 a pricing exception is needed over and above that
22 set tolerance, it's the regional's decision to
23 allow that exception to be processed or to grant
24 that exception.

25 And the difference between the

1 pricing exception tolerance and what the regional
2 chose to approve is -- which they've approved and
3 exchanged, you know, with our secondary
4 department. It was deducted from the regional
5 manager's compensation on their monthly recap --

6 BY MS. GIBSON:

7 Q And in this --

8 A -- their manager override recap.

9 Q Okay. And this email is dated March
10 29, 2019, which is after the February 19 --
11 February of 2019 leadership meeting. So was that
12 a new PE rule introduced at that leadership
13 meeting?

14 A I wasn't a -- I wasn't -- Jon Reed's
15 position at the time was working with Jason
16 Obradovich, who is our secondary department, on
17 setting pricing exception, you know, tolerances
18 that the regional managers were involved in and
19 discussions of what those would be. And as far
20 as, you know, going over, you know, that
21 threshold, were exceptions made on occasion?
22 Possibly.

23 Q My question was, was the change to PE
24 tolerances announced at the February 2019
25 leadership meeting?

1 A From my recollection, at the meeting,
2 it was stated that PE tolerances were going to be
3 reviewed at a later date with each regional,
4 because all the regions were different. When I
5 say different, I mean different loan volume,
6 different production. To my knowledge, I don't
7 recollect set PE tolerances being discussed at
8 the meeting.

9 Q Okay. I understand you don't recall
10 set tolerances for each region being discussed at
11 the meeting. Was it --

12 A Or changes to PE tolerances.

13 Q So changes to PE tolerances were not
14 announced at the meeting, then. Is that your
15 testimony?

16 A My recollection was that there was a
17 discussion around Jon would be working with Jason
18 on reviewing the current pricing exception
19 tolerances and any, you know, changes would be
20 discussed at a later date with each regional.
21 That's my recollection of what was discussed.

22 Q Do you recall Ms. Spearman's response
23 at the meeting?

24 A I do not.

25 

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 BY MS. GIBSON:

2 Q Okay. We're loading an exhibit for
3 you to take a look at. If you refresh your
4 screen, you should see an email, two pages from
5 Christy Bunce, dated February 13th, 2019.

6 A This is Exhibit 6?

7 MR. HARGROVE: 6.

8 MR. PERLOWSKI: It's just taking some
9 time on my end. I'm not sure why.

10 MS. GIBSON: Okay.

11 MR. PERLOWSKI: Here we go. I've got
12 it. Thanks.

13 THE WITNESS: The -- let me make sure
14 I have the right exhibit up. This is an email
15 from Christy Bunce. It's dated February 13,
16 2019?

17 BY MS. GIBSON:

18 Q Yes.

19 A Okay.

20 Q And if you go to the bottom of the
21 email, so it will be on the next page.

22 A The bottom of the email. Yes, I have
23 it.

24 Q And there's an email from
25 Ms. Spearman dated February 13th, 2019, at

1 10:13 a.m. to Christy, Jon Reed, and Jan Preslo.


2 Do you see that?

3 A Yes, ma'am.

4 Q And is this the day after the
5 leadership meeting?

6 A I don't remember the exact date of
7 the meeting, but based on Gina's email, I would
8 assume so.

9 Q Okay. And if you read her email, it
10 says, "We spent several hours yesterday and today
11 reviewing all the information you provided in our
12 meeting, along with the P&L info in Kevlar."

13 And she writes, "There are many
14 inconsistencies with the data that were causing
15 us serious concern. If we use our actual
16 expenses, including current PEs, comp, marketing,
17 rents, salaries, and apply industry-accepted pro
18 forma ranges for corporate allocations, we should
19 be  in profit to NAF."

20 Do you see that?

21 A Yes, ma'am.

22 Q Okay. So did anyone -- did you
23 respond to Ms. Spearman about how her
24 calculations varied from what your P&L showed
25 about the southeastern region?

1 MR. PERLOWSKI: Object to the form.
2 Foundation. You can answer.

3 THE WITNESS: Give me a moment.
4 BY MS. GIBSON:

5 Q Uh-huh (affirmative).

6 A I don't remember this email, but
7 I'm -- just give me a moment to -- I don't
8 remember if I responded to the email. It could
9 have been a response. You know, Christine, being
10 the COO, may have made the decision that she
11 would respond to Gina's, you know, email
12 regarding her concerns. I don't remember
13 responding to this email.

14 Q Do you remember picking up the phone
15 and calling Gina and talking to her about this?

16 A I do not.

17 Q Okay. Is there any reason why no one
18 would call her and explain how their calculations
19 are off from NAF's P&Ls?

20 MR. PERLOWSKI: Object to the form.
21 Speculation. Foundation. You can answer if you
22 can.

23 THE WITNESS: I can't answer that no
24 one responded to her. I don't recollect
25 responding. It could have been that Christy

1 Bunce may have responded or Jon at the time.

2 If -- I can't speculate if they picked up the
3 phone and had a conversation with her.

4 BY MS. GIBSON:

5 Q In the top -- so you don't know how
6 their calculations showing [REDACTED] of profit
7 could vary -- would vary so much from the P&Ls?

8 MR. PERLOWSKI: Object to the form.
9 Foundation. You can answer.

10 THE WITNESS: So based on my years of
11 experience, the comment, we use our actual
12 expense, including current PEs, comp, marketing,
13 rents, salaries and apply industry-accepted pro
14 forma ranges --

15 BY MS. GIBSON:

16 Q Uh-huh (affirmative).

17 A -- for corporate allocations, there
18 is to -- there's not an industry-accepted pro
19 forma range. I mean, it varies from company to
20 company.

21 Q Uh-huh (affirmative).

22 A And you -- and that's been evidenced
23 by, you know, independent structure company
24 documentation. So that -- that comment and that
25 email, in my opinion, is inaccurate.

1 Q So that factor might alter why her
2 reading of profitability is different than NAF's
3 P&Ls regarding profitability?

4 MR. PERLOWSKI: Object to the form.
5 Foundation. You can answer.

6 THE WITNESS: I don't know what Gina
7 used in her calculation when she makes the
8 comment "Our actual expenses, including PEs,
9 comp, marketing, rents, salaries." I mean, I
10 don't -- I'd be speculating answering this. I
11 don't know if she went to HR and got a giant
12 spreadsheet of salaries. Did she do her own
13 calculation correct or not? I don't -- I -- it's
14 hard to answer that question.

15 MS. GIBSON:

16 Q Well, if she included current PEs,
17 comp, marketing, rents, salaries, what other
18 expenses do you know of that the southeast
19 division had?

20 A In addition to that?

21 Q Yes.

22 A So back to the whole purpose of the
23 meeting, referring to the meeting where the SVPs
24 were brought into our corporate office, it was
25 discussed expenses that were not being mapped to

1 the outside retail P&Ls that should be on a
2 go-forward basis.

3 So when I read this actual
4 expenses -- if we use our actual expenses,
5 including current PEs, comp, marketing, rents,
6 and salaries and applying industry, we should be
7 [REDACTED] profit to NAF.

8 So I don't know if she took the 2018
9 P&L from December and then tried to apply. I
10 don't know -- I don't have a recollection of what
11 she provided as far as attaching a spreadsheet or
12 any -- these are very general comments.

13 Q And you never asked her?

14 A I don't recall having a conversation
15 with her about this.

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED] [REDACTED]

4 [REDACTED] [REDACTED]

5 [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED]

7 [REDACTED] [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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BY MS. GIBSON:

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Q Okay. Are you finished?

8

A Yes.

9

Q Okay. So Ms. Spearman is emailing
you and others complaining, and you didn't
respond; is that correct?

12

13

MR. PERLOWSKI: Objection. Asked and
answered.

14

15

16

THE WITNESS: I believe I answered
that I don't have a recollection of responding to
this email.

17

BY MS. GIBSON:

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21

Q Okay. Okay. That's fair. And then
the top page -- and I'll say that you're not on
this email that's between Christy and Patty
Arvielo.

22

23

24

25

But Ms. Arvielo says, "What I don't
like is they are calling us liars. I want a
total breakdown on the business they came with
and what has been built since they've been

1 here -- or gotten here. They will be okay, but
2 we need to put them on a P&L. Therefore, we need
3 to really work fast on getting an efficient
4 system so they can work off of it."

5 Do you see that?

6 A Yes, ma'am.

7 Q Did you ever have any conversations
8 with Ms. Arvielo or Ms. Bunce about this portion
9 of the email?

10 A No, not that I recollect.

11 Q Okay. Was the purpose -- to your
12 knowledge, was the purpose of going to a P&L
13 system really fast -- wait -- going to a P&L
14 system so that you could decrease Ms. Spearman's
15 compensation?

16 MR. PERLOWSKI: Objection. Asked and
17 answered. You can answer again.

18 MR. GIBSON: I don't think you've
19 answered that. Go ahead.

20 THE WITNESS: There was not a
21 purpose -- can you repeat your -- repeat your
22 question. I'm going to --

23 BY MS. GIBSON:

24 Q Was the purpose of going to a P&L
25 system to reduce Ms. Spearman's compensation?

1 A No.

2 MS. GIBSON: We're loading another
3 exhibit, so if you can give us a minute. You may
4 need to refresh your screen. I'll tell you when
5 it's up there.

6 MR. HARGROVE: It's up there.

7 MS. GIBSON: It's up there.

8 THE WITNESS: Exhibit 7?

9 MS. GIBSON: Yes.

10 MR. PERLOWSKI: Give me a second.
11 Mine is still circling.

12 THE WITNESS: It's circling on my
13 end, as well. It's up.

14 (Whereupon a document was identified as
15 Exhibit 7.)

16 BY MS. GIBSON:

17 Q And if you look at that first page,
18 that email from Ms. Spearman dated March 29,
19 2019.

20 A Yes.

21 Q And it's to Rick, Kelly, Patty
22 Arvielo, Ms. Bunce, and Jon Reed. So you're not
23 on this email chain, so I just want to recognize
24 that. Have you seen this email before?

25 A Just give me a moment. I'm -- I

1 don't recall if I --

2 Q Yeah, no problem.

3 MR. PERLOWSKI: Take your time. Take
4 your time.

5 THE WITNESS: Okay. So can you
6 repeat your question?

7 BY MS. GIBSON:

8 Q I didn't have one yet.

9 A Oh, okay. Yeah, I -- I'm sorry. I
10 wanted to take a moment to read it.

11 Q Yeah. And have you read that email
12 from Ms. Spearman?

13 A Yes, ma'am.

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 Do you recall that one-on-one meeting
21 with Ms. Spearman and Christy and Jon Reed?

22 A I don't recollect a one-on-one
23 meeting. I don't know if this was the same day
24 that they were in town, in Tustin, for the SVP
25 meeting. I'm not sure of that exact date. I

1 don't specifically remember a one-on-one meeting.

2 Q Okay. And I'll represent to you from
3 other testimony, February 12th was the day of the
4 leadership meeting, if that helps you at all.

5 A Okay.

6 Q So you didn't meet as a smaller group
7 with Ms. Spearman, Christy, Jan?

8 A I don't recollect meeting with her
9 one on one.

10 Q Okay. And then she goes on to write,
11 March 5th SVP/EVP meeting. "After joint meeting,
12 Kelly and I met with Jon individually and
13 proposed a reduction in LO comp to 130 and
14 accountability to a weighted average of 75 BPS on
15 a monthly basis to include a claw back if
16 needed."

17 Do you see that?

18 A Yes, ma'am.

19 Q Do you recall Ms. Spearman and
20 Ms. Allison and other SVPs coming to Tustin to
21 meet with the EVPs on March 5th?

22 MR. PERLOWSKI: Objection.
23 Foundation. You can answer.

24 THE WITNESS: I don't recollect a
25 March 5th meeting.

1 BY MS. GIBSON:

2 Q Okay. So you don't recall all of the
3 SVPs from NAF's retail division flying to Tustin
4 to meet with you and Jon Reed?

5 MR. PERLOWSKI: Objection.
6 Foundation.

7 MS. GIBSON:

8 Q You can answer.

9 A I don't have any recollection of them
10 flying in on March 5th.

11 Q Okay. On -- and then the bullet
12 point two down, March 20th, call with Jason,
13 Christy, Jon, Jan, and Kristin to discuss plan --
14 go forward plan. Do you recall the March 20th
15 call with Ms. Spearman?

16 A I don't specifically remember this
17 conversation, no.

18 Q Okay. And then the last paragraph
19 says, "In summary, as we have stated previously,
20 we are firmly committed to being part of the
21 solution to ensure NAF is profitable."

22 Do you see that? If you'll just read
23 the last paragraph.

24 A I'm sorry. Is that in the last
25 paragraph?

1 Q In summary.

2 A Oh, in summary. Oh, okay. Okay.

3 Q And you see --

4 A Yeah, right after -- uh-huh
5 (affirmative).

6 Q Yeah. Do you see it says, "We are
7 firmly committed to being part of the solution";
8 correct?

9 A Yes, ma'am.

10 Q So even after the announcements made
11 at the leadership meeting, Ms. Spearman remained
12 employed by NAF and committed to being a part of
13 the solution; is that correct?

14 A Yes. That's what's stated in the
15 email, and she -- yes.

16 Q To your knowledge, did she stay
17 employed at NAF and work towards being part of
18 the solution?

19 A Yes.

20 MR. PERLOWSKI: Object to the form.

21 BY MS. GIBSON:

22 Q And the last sentence there says, "We
23 look forward to seeing you and Patty when you
24 visit Atlanta."

25 Do you see that?

1 A Yes, ma'am.

2 Q Are you aware of Rick and Patty
3 Arvielo going to Atlanta to see Ms. Spearman and
4 Ms. Allison?

5 A I don't recollect, you know --

6 Q Did you ever -- did you ever --

7 MR. PERLOWSKI: Hold on one second.
8 Were you finished with your answer, Ms. Preslo?
9 You said --

10 THE WITNESS: I don't -- I don't
11 recall Patty and Rick making a visit to Atlanta.
12 They could have. They travel. So --

13 BY MS. GIBSON:

14 Q Did they ever discuss going to --
15 discuss with you that they were going to go to
16 Atlanta to discuss the changes announced at the
17 leadership meeting with Ms. Spearman?

18 A I have no recollection of having any
19 kind of conversation with Rick or Patty regarding
20 that.

21 Q So the best person to ask about that
22 meeting would be either Ms. Spearman or Rick and
23 Patty?

24 A I'm not aware of Patty and Rick
25 having any conversation with either Kelly or Gina

1 on compensation changes, and that's not in the
2 scope of what they would normally even have a
3 conversation with an SVP about.

4 Q So you don't know if they even went
5 to Atlanta, then, to meet with Ms. Spearman?

6 A I don't -- I don't recall. They may
7 have had plans to be in that area and may have
8 made a -- you know, a visit with them. I don't
9 know.

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
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Q Do you recall what you and Jon Reed discussed?

A I have no recollection of what we discussed specifically.

Q Okay.

MS. GIBSON: We're going to load another exhibit, and I'm close to finished. So I have one or two more exhibits.

MR. HARGROVE: It should be up, guys.

MR. PERLOWSKI: Thanks, Travis.

(Whereupon a document was identified as Exhibit 8.)

BY MS. GIBSON:

Q Go ahead and take a minute and review that. It's an email that's dated March 20 of 2019.

A Is this Exhibit 8?

Q Yes.

MR. PERLOWSKI: Yeah. Just give me a moment, please.

THE WITNESS: It's circling.

MR. PERLOWSKI: Yep.

Spearman, Gina v. Broker Solutions, Inc. Et Al

1 THE WITNESS: Okay. It's up.

2 MR. PERLOWSKI: I've got it. Thank
3 you.

4 THE WITNESS: Uh-huh (affirmative).
5 I have it.

6 BY MS. GIBSON:

7 Q Okay. Have you reviewed it?

8 A Give me a moment.

9 Q Okay.

10 A It's a long email.

11 Q And you might want to start on the
12 second page with Ms. Allison's email --

13 A Yep.

14 Q -- to Christy Bunce, you, Jon Reed,
15 and the Arvielos.

16 A Okay. Okay.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 Q And is the collective agreement with
14 NAF corporate two years ago, is that the -- is
15 that the contracts that Kelly and Gina signed
16 with NAF?

17 MR. PERLOWSKI: Object to the form.
18 Speculation. You can answer.

19 BY MS. GIBSON:

20 Q Do you --

21 A I can't interject and answer a
22 question of what -- Kelly Allison wrote an email,
23 what she was referring to.

24 Q So you don't -- she writes this email
25 to you, but you don't know what --

1 A She does.

2 Q But you don't know what she's
3 referring to?

4 A Well, regardless of the delay of --
5 we made commitments to the team two years ago
6 based upon the collective agreement with NAF
7 corporate, I don't know what she's referring to.

8 Q Go ahead and read the rest of the
9 sentence -- the paragraph. It says, "Although
10 NAF is retracting on the employment agreement
11 with myself and Gina, we cannot condone doing the
12 same to our team and family that have aligned
13 themselves with our leadership for many years."

14 So Gina and Kelly agreed to stay on
15 at NAF, even after the February 2019 leadership
16 meeting; correct?

17 A Yes, they continued to stay employed
18 at NAF after that meeting.

19 Q And then if you go to the first page,
20 Christy Bunce responds. Did you read her email?

21 A Yes, I did.

22 Q Okay. And five lines down, she
23 writes, "We are looking to all of you to be a
24 part of the solution, hence the meetings we have
25

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Do you see that?

6

A Yes, ma'am.

7

Q So do you recall receiving this

8

email?

9

A I do not have a recollection of this

10

email. I'm on the email chain, but I don't

11

specifically remember this email.

12

Q Did you encourage Gina and Kelly to

13

stay at NAF even after you told them you were

14

cutting their marketing budget and pricing

15

exceptions?

16

MR. PERLOWSKI: Object -- object to

17

the form. Foundation. You can answer.

18

THE WITNESS: Gina and -- and Kelly

19

are good leaders. They -- I mean, yes. I mean,

20

if we did not want them to stay with the company,

21

I don't think Christy would have written an email

22

saying we want you to be part of the solution or

23

we want to work with you as part of the solution.

24

BY MS. GIBSON:

25

Q Okay. Did NAF eventually hire a CFO?

1 A Yes.

2 Q Okay. When did they hire a CFO?

3 A The CFO was hired in 2019. I don't
4 remember the specific date of his employment.

5 Q Okay. And what was the CFO's name?

6 A Scott Frommert.

7 Q Is he still employed by NAF?

8 A He is not.

9 Q When did he leave?

10 A I believe in 2020. I do not have the
11 exact date.

12 Q So he was hired after the leadership
13 meeting in 2019 and then left in 2020, so was he
14 there just approximately a year?

15 A I would say approximately a year.

16 Q Do you know why he left?

17 A I do not.

18 Q Was he fired?

19 A I don't know the terms of his, you
20 know, exit from NAF. He was a CFO. He didn't
21 report to me. I worked with him, but I don't
22 know why -- I don't have knowledge of that.

23 Q Did he prepare the P&L model that was
24 being discussed after the 2019 leadership
25 meeting?

1 A Yes. He was charged with working
2 through P&L models, specifically with the SVPs.

3 Q Were you present at a meeting in
4 NAF's office in Atlanta with Scott Frommert and
5 Jon Reed and Christy -- I'm sorry -- Kelly
6 Allison, Ms. Spearman, and Lex Watson?

7 A Was I at that meeting?

8 Q Uh-huh (affirmative).

9 A No, I did not travel to Atlanta.

10 Q Did you speak to Jon Reed and Scott
11 Frommert before they attended that meeting with
12 them?

13 A We had meetings with Kelly and Gina,
14 Scott Frommert and Jon Reed on various different
15 P&L pro formas. And Jon was tasked with that
16 mostly with Scott, and the decision was made to
17 fly out to -- for them to meet with Gina and
18 Kelly in person versus everything being, you
19 know, over conference calls.

20 Q Did -- were there any materials
21 prepared for that meeting with Ms. Allison and
22 Ms. Spearman?

23 MR. PERLOWSKI: Object to the form.
24 Foundation. Speculation. You can answer.

25 THE WITNESS: I don't recollect

1 specifically. No, I don't have a recollection of
2 any materials.

3 BY MS. GIBSON:

4 Q So you don't recall Jon Reed showing
5 you any materials prepared for that meeting?

6 A We -- as I stated, we had meetings.
7 Scott Frommert had prepared various different pro
8 formas for Kelly and Gina, with Jon Reed and
9 Scott flying to Atlanta to visit with them.

10 I'm sure they had those examples in
11 person to review with them versus it all being
12 over the phone, but I did not see a specific
13 packet prepared that I recollect that they were
14 presenting to them.

15 Q Were you ever on any calls with Gina
16 Kelly, Scott, and Jon Reed?

17 A Yes.

18 Q Okay. And if you load -- refresh
19 your screen and look at Exhibit 9.

20 MS. GIBSON: Henry, let me know when
21 you have it up.

22 MR. PERLOWSKI: Sure.

23 THE WITNESS: Okay.

24 MR. PERLOWSKI: Not yet on my end.

25 I'll let you know.

1 MS. GIBSON: Okay.

2 MR. PERLOWSKI: It's circling. Okay.
3 It's up. Thank you.

4 (Whereupon a document was identified as
5 Exhibit 9.)

6 BY MS. GIBSON:

7 Q And if you look halfway down that
8 first page, it's from Scott Frommert to Kelly and
9 Gina, you, Jon -- and Jon Reed. And it says,
10 "please see below for our call."

11 And this is on September 12th at
12 12:03 p.m. Do you see that?

13 A Yes.

14 Q Did you join that call?

15 A I don't have a recollection. We had
16 several calls over a period of time where I was
17 on those calls with Scott, Jon, Kelly, and Gina.
18 Jon had calls individually with them, I believe.
19 I don't remember the specific call. We had many
20 calls going over -- going over the various
21 different plans that Scott Frommert was working
22 on for them.

23 Q So there was a lot of back and forth
24 on this plan that Scott Frommert was preparing
25 for them; is that correct?

1 A Kelly and Gina were involved in the
2 discussions of the plan.

3 Q Uh-huh (affirmative).

4 A Which would include questions. From
5 a back-and-forth-perspective, I don't know what
6 the definition of back and forth is. There were
7 discussions, there were calls about the plans
8 that Scott was preparing to put the SVPs on a P&L
9 plan.

10 And the goal was to not cut anyone's
11 pay, but to actually work with the SVPs, to move
12 them to a P&L plan where their compensation would
13 be similar to what they were used to but would
14 have a -- could also have a benefit of making
15 additional money if they were profitable and were
16 able to manage their territory and grow their
17 territory.

18 Q Okay. I am loading another exhibit.
19 And other than what you've testified to, do you
20 remember anything else that was discussed on
21 these calls that you participated in?

22 A The calls were always centered around
23 their plans, the various different pro formas
24 that Scott was working on, and feedback, but --
25 with Scott and Kelly and Gina on the plans.

1 Q Was there conversation comparing
2 their 2016 agreements to their -- to this
3 proposed P&L model?

4 A I don't understand your question. Or
5 can you repeat the question?

6 Q Sure. On these discussions that
7 you -- or on these calls that you were involved,
8 was there conversations where the members on the
9 call were comparing their compensation from their
10 2016 agreement to this new P&L model that was
11 embodied in the March 1, 2020 amendment, Schedule
12 1?

13 A To my recollection, there was not a
14 comparison of a -- their 2016 agreement. It was
15 comparing what they had earned in compensation
16 over the previous year.

17 (Whereupon a document was identified as
18 Exhibit 10.)

19 By MS. GIBSON:

20 Q Okay. Can you refresh your screen,
21 and there is going to be an Exhibit 10.

22 A I have it.

23 MR. PERLOWSKI: So do I.

24 BY MS. GIBSON:

25 Q Okay. And if you go down to the

1 bottom of the first page, you see an email from
2 you to Kelly and Gina, CC'ing Jon Reed and
3 yourself. It's a draft SVP compensation
4 agreement for Gina and Kelly. Do you see that?

5 A Yes, ma'am.

6 Q Okay. And that's September 13, 2019.
7 And you say, "Attached is the draft document to
8 forward to your attorney today to start
9 reviewing."

10 Do you see that?

11 A Yes, ma'am.

12 Q Okay. And you said, "I was given
13 permission to forward the attached to you. Each
14 division will have its own P&P addendum."

15 What is the P&P addendum?

16 A That would be that -- P&P references
17 policies and procedures.

18 Q Got you. And so this -- do you --
19 did you send this to Gina in advance of the
20 meeting that Scott Frommert and Jon Reed attended
21 for their attorney -- for Gina's attorney to
22 review?

23 A Repeat the question.

24 Q Did you send this to Gina in advance
25 of the meeting that Scott flew out to Atlanta to

1 attend?

2 A I don't recollect the date that Scott
3 and Jon flew to Atlanta.

4 Q Well, would you have sent the draft
5 document before their meeting?

6 A If you read the email, "I attached
7 the draft document to forward to your attorney
8 today to start reviewing."

9 Q Okay. So you didn't --

10 A I don't know if that was a request --
11 I don't recollect if that was a request from
12 Kelly to have her attorney to start to review a
13 draft document. And I don't recollect if this
14 was sent in advance of a meeting. I -- I don't
15 recollect the date that Scott and Jon flew out
16 there from a timing perspective.

17 Q Why were you sending a draft of the
18 agreement to Ms. Spearman?

19 A Kelly's typically had her attorney
20 review agreements. I'm assuming she requested a
21 copy. And I obtained approval. It was -- it was
22 a draft document. And my sentence says, "I was
23 given permission to forward the attached to you."
24 I'm assuming she must have requested it.

25 Q Is there any reason why NAF was

1 exchanging drafts of the proposed P&L agreement
2 with Ms. Spearman and Ms. Allison?

3 MR. PERLOWSKI: Object to the form.
4 Asked and answered. Go ahead.

5 THE WITNESS: As I previously stated,
6 the SVPs were engaged with Scott Frommert and
7 calls I participated in with Jon Reed and Scott
8 regarding going on to a P&L plan. The whole
9 purpose of that was for the SVPs to have
10 engagement in the process.

11 And I'm sure Kelly -- we discussed,
12 I'm sure, on those calls that we were working on
13 a draft document, and she must have -- I'm
14 assuming she probably requested it for me to
15 forward it to her, and I obtained permission to
16 do that.

17 BY MS. GIBSON:

18 Q So NAF didn't just draft the new P&L
19 contract and said, here it is, sign it, this is
20 it?

21 A No, it says draft document.

22 Q Right. So they -- so NAF was asking
23 for their input?

24 A I don't recollect asking for Kelly's
25 input. Kelly's typically always wanted to have

1 her attorney review documentation. She must have
2 requested it on a call with Jon and Scott or I
3 mean -- or I don't -- I don't remember her
4 requesting it for me to forward that to her. And
5 for me to obtain approval from legal, she must
6 have requested it.

7 What we were working on was not a
8 secret. It was shared with all the SVPs that we
9 were working -- as they were working with Scott
10 on their -- their plan. Legal, at the same time,
11 was working on the agreement that would go in
12 conjunction with that P&L plan.

13 Q Do you know if NAF had consulted
14 counsel of its own in September of 2019?

15 MR. PERLOWSKI: And, Ms. Preslo, I
16 would just caution you to just answer that
17 question with a yes or no and not reveal any
18 communications --

19 MS. GIBSON: That -- that's my
20 question.

21 MR. PERLOWSKI: -- associated with
22 any potential answer.

23 THE WITNESS: Can you repeat the
24 question?

25 BY MS. GIBSON:

1 Q Yes. And all I want is a yes or no
2 answer. Do you know if NAF had contacted counsel
3 in September of 2019?

4 A No.

5 Q No, you don't know or, no, they
6 hadn't?

7 A No, I don't know.

8 Q Okay. So do you recall the date of
9 when the new P&L model, the contract for that was
10 signed by Ms. Spearman and Ms. Allison?

11 A I don't recall if Gina executed that
12 contract. We'd have to check with HR on when
13 that was sent. I want to say I believe it was
14 the beginning of first quarter 2021. I don't
15 recollect if Gina ever executed it.

16 Q You don't recollect if she ever
17 signed it?

18 A I don't -- I don't recall if she
19 signed it.

20 Q Okay. Do you recall when she
21 resigned?

22 A She -- I don't have the exact date,
23 but she resigned in, I want to say, I think the
24 beginning of March 2020.

25 Q And so from the leadership meeting

1 February 19 of 2019 through March of '20, NAF was
2 negotiating -- or preparing this new P&L model
3 contract for the girls to sign; is that correct?

4 MR. PERLOWSKI: Objection.
5 Mischaracterizes testimony. Answer if you can.

6 BY MR. PERLOWSKI:

7 Q I'm asking.

8 A During that time frame --

9 Q Uh-huh (affirmative).

10 A -- Gina and Kelly was involved in the
11 P&L plan as far as discussing the various
12 different pro formas -- pro formas that would be
13 available for them.

14 Q I'm curious why NAF involved Gina and
15 Kelly in preparing this March 2020 Schedule 1
16 based on the pro forma. Can you tell me why it
17 involved them instead of just preparing it and
18 saying, here it is?

19 A As I stated, there were many
20 conversations and meetings that were -- that was
21 had about the plan.

22 Q Uh-huh (affirmative).

23 A Kelly must have asked for it. And
24 knowing that she would have an attorney review it
25 anyway, we -- I was given permission to forward

1 it to her.

2 Q And did NAF make changes to the March
3 2020 Schedule 1 based on comments from Kelly's
4 attorney?

5 A On the agreement, I'm not aware. I
6 wasn't involved in reviewing comments back from
7 Kelly's attorney. I believe that went through
8 the legal department.

9 Q Okay. Do you refer to Gina and Kelly
10 as "the girls"?

11 A I have referred to them that way,
12 yes.

13 Q Okay. Have you ever said the girls
14 make too much money?

15 A I have never said that.

16 Q Have the Arvielos ever said that?

17 MR. PERLOWSKI: Objection.

18 Speculation. Go ahead. Have they --

19 BY MS. GIBSON:

20 Q Have they ever said that to you?

21 A They have not said that to me, no.

22 Q Were you surprised that Gina
23 resigned?

24 A Yes.

25 Q Why?

1 A Because she had worked with Kelly.
2 And for many years, my impression was that we
3 were moving forward, you know, with a P&L plan
4 for them. Obviously, from the emails, you can
5 see there were questions on her end. But I was
6 surprised, yes.

7 Q There were questions on whose end?

8 A Well, from Gina's emails. You --
9 you've showed me exhibits, which I don't
10 recollect those emails, but she had questions.
11 My impression was we had resolved -- we were
12 working through moving them to a P&L.

13 So, yes, I -- to answer your
14 question, yes, I was surprised.

15 Q Did she ever -- did Gina ever express
16 to you that she felt misled by the statements
17 made at the February 2019 leadership meeting
18 about call productions and marketing costs and
19 PEs?

20 A I don't recall her making those
21 specific allegations.

22 Q You don't recall any conversations
23 with Ms. Spearman about that?

24 A We had many conversations about what
25 had transpired, the expenses moving to the retail

1 division P&L, discussions about moving to a P&L.
2 I don't -- specifically her -- remember
3 conversations where her saying she felt misled
4 with me.

5 Q With you?

6 A The question is for me, yes.

7 Q Yeah, it's for you. But do you
8 recall conversations with Ms. Spearman where --
9 where she told you she felt misled by NAF, not by
10 you, but by NAF?

11 A No.

12 Q You don't recall those conversations?

13 A I don't recollect those
14 conversations, no.

15 Q And you don't recall -- to your
16 recollection, do you -- you don't recall Gina
17 being -- expressing that she was unhappy to you
18 about the changes made?

19 MR. PERLOWSKI: Object to the form.
20 You can answer.

21 THE WITNESS: She was nervous about a
22 change. A P&L can -- is a P&L. And it's driven
23 by profitability. It's driven by production.
24 It's not a set salary. It's not a set amount
25 that you get every month. So I do -- she did

1 express being nervous about it. But misled, no,
2 I don't recollect any conversation about her
3 feeling misled.

4 MS. GIBSON: Can we take a
5 five-minute break?

6 MR. PERLOWSKI: Of course.

7 (Proceedings in recess, 4:02 p.m. to
8 4:06 p.m.)

9 MS. GIBSON: I don't have any further
10 questions, subject to any redirect that
11 Mr. Perlowski does.

12 MR. PERLOWSKI: I have none.

13 MS. GIBSON: I'm sorry?

14 MR. PERLOWSKI: I have none.

15 MS. GIBSON: Okay. And subject to
16 any documents that NAF may produce in response to
17 the order on the motion to compel that may fall
18 under her topics.

19 MR. PERLOWSKI: Position understood.

20 MS. GIBSON: All right. Thank you,
21 Ms. Preslo, for your time. I hope you have a
22 nice weekend.

23 THE COURT REPORTER: Who wants a copy
24 of the transcript?

25 MR. PERLOWSKI: Yes, please.

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1 MS. GIBSON: I do.

2 THE COURT REPORTER: Okay. Thank
3 you.

4 (Proceedings adjourned, 4:07 p.m.)

5 (Signature reserved.)

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1 The following reporter and firm
2 disclosures were presented by me at this
3 proceeding for review by counsel:

4 REPORTER DISCLOSURES

5 The following representations and
6 disclosures are made in compliance with Georgia
7 Law, more specifically:

8 Article 10 (B) of the Rules and
9 Regulations of the Board of Court Reporting
10 (disclosure forms)

11 OCGA Section 9-11-28 (c)
12 (disqualification of reporter for financial
13 interest)

14 OCGA Section 15-14-37 (a) and (b)
15 (prohibitions against contracts except on a
16 case-by-case basis).

17 - I am a certified court reporter in the State of
18 Georgia.

19 - I am a subcontractor for Veritext.

20 - I have been assigned to make a complete and
21 accurate record of these proceedings.

22 - I have no relationship of interest in the
23 matter on which I am about to report which would
24 disqualify me from making a verbatim record or
25 maintaining my obligation of impartiality in
compliance with the Code of Professional Ethics.

 - I have no direct contract with any party in
this action, and my compensation is determined
solely by the terms of my subcontractor
agreement.

 FIRM DISCLOSURES

 - Veritext was contacted to provide reporting
services by the noticing or taking attorney in
this matter.

 - There is no agreement in place that is
prohibited by OCGA 15-14-37 (a) and (b). Any
case-specific discounts are automatically applied
to all parties at such time as any party receives
a discount.

 - Transcripts: The transcript of this proceeding
as produced will be a true, correct, and complete
record of the colloquies, and answers as
submitted by the certified court reporter.

1 - Exhibits: No changes will be made to the
exhibits as submitted by the reporter, attorneys,
2 or witnesses.

- Password-Protected Access: Transcripts and
3 exhibits relating to this proceeding will be
uploaded to a password-protected repository, to
4 which all ordering parties will have access.

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1 CERTIFICATE

2 STATE OF GEORGIA:

3 COUNTY OF COBB:

4 I hereby certify that the foregoing
5 deposition was taken down, as stated in the
6 caption, and the colloquies, questions and
7 answers were reduced to typewriting under my
8 direction; that the transcript is a true and
9 correct record of the evidence given upon said
10 proceeding.

11 That the witness's right to read and
12 sign the deposition was reserved;

13 I further certify that I am not a
14 relative or employee or attorney of any party,
15 nor am I financially interested in the outcome of
16 this action.

17 I have no relationship of interest in
18 this matter which would disqualify me from
19 maintaining my obligation of impartiality in
20 compliance with the Code of Professional Ethics.

21 I have no direct contract with any party
22 in this action and my compensation is based
23 solely on the terms of my subcontractor
24 agreement.

25 Nothing in the arrangements made for
this proceeding impacts my absolute commitment to
serve all parties as an impartial officer of the
court.

Tl



SHANNON E. JORDAN, RPR, CCR-B-2126

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1 To: Henry M. Perlowski

2 henry.perlowski@agg.com

3 January 31, 2022

4 Re: Gina Spearman v. Broker Solutions, Inc. d/b/a
5 New American Funding

6 January 21, 2022, Jan Preslo

7 The above-referenced transcript is available
8 for review.

9 Within the applicable time frame, the witness
10 should read the testimony to verify its accuracy.
11 If there are any changes, the witness should note
12 those with the reason, on the attached Errata
13 Sheet.

14 The witness should sign the Acknowledgement
15 of Deponent and Errata and return to the deposing
16 attorney. Copies should be sent to all counsel,
17 and to Veritext at erratas-cs@veritext.com.

18 Return completed errata within 30 days from
19 receipt of testimony.

20 If the witness fails to do so within the time
21 allotted, the transcript may be used as if
22 signed.

23 Yours,

24 Veritext Legal Solutions
25

1 ERRATA for ASSIGNMENT # 5026286

2 I, the undersigned, do hereby certify that I have
3 read the transcript of my testimony, and that

4 ____There are no changes noted.

5 ____The following changes are noted:

6 Pursuant to Rule 30(7)(e) of the Federal Rules of
7 Civil Procedure and/or OCGA 9-11-30(e), any
8 changes in form or substance which you desire to
9 make to your testimony shall be entered upon the
10 deposition with a statement of the reasons given
11 for making them. To assist you in making any
12 such corrections, please use the form below. If
13 additional pages are necessary, please furnish
14 same and attach.

15 Page No.____Line No.____Change to_____

16 Reason for change_____

17 Page No.____Line No.____Change to_____

18 Reason for change_____

19 Page No.____Line No.____Change to_____

20 Reason for change_____

21 Page No.____Line No.____Change to_____

22 Reason for change_____

23 Page No.____Line No.____Change to_____

24 _____

25

Reason for change_____

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Page No.____Line No.____Change to_____

Reason for change_____

DEPONENT'S SIGNATURE

Sworn to and subscribed before me this ____ day
of _____, 20____.

NOTARY PUBLIC

My Commission Expires:_____

[& - 3:04]

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FLORIDA RULES OF CIVIL PROCEDURE

Rule 1.310

(e) Witness Review. If the testimony is transcribed, the transcript shall be furnished to the witness for examination and shall be read to or by the witness unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given by the witness for making the changes. The changes shall be attached to the transcript. It shall then be signed by the witness unless the parties waived the signing or the witness is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within a reasonable time after it is furnished to the witness, the officer shall sign the transcript and state on the transcript the waiver, illness, absence of the witness, or refusal to sign with any reasons given therefor. The deposition may then be used as fully as though signed unless the court holds that the reasons given for the refusal to sign require rejection of

the deposition wholly or partly, on motion under rule 1.330(d)(4).

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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